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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1070; Project Identifier 2020–CE–004–AD; Amendment 39–22214; AD 2022–21–15]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 NG, and DA 42 M–NG airplanes. This AD is prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a loose rudder T-yoke axle nut. This AD requires replacing the rudder T-yoke axle with an improved rudder T-yoke axle. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 14, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 14, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2021–1070; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *diamondaircraft.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2021–1070.

FOR FURTHER INFORMATION CONTACT: Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; email: *penelope.trease@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered DAI Model DA 42, DA 42 NG, and DA 42 M–NG airplanes. The NPRM published in the **Federal Register** on December 14, 2021 (86 FR 70987). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2019–0302, dated December 13, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on DAI Model DA 42, DA 42 M, DA 42 NG, and DA 42 M–NG airplanes. The MCAI states:

> Occurrences were reported of finding a loose rudder T-yoke axle nut on DA 42 aeroplanes.
>
> This condition, if not detected and corrected, could lead to vertical movement of the axle, possibly resulting in reduced rudder control of the aeroplane.
>
> To address this potential unsafe condition, DAI issued the applicable MSB [Mandatory Service Bulletin], providing instructions to inspect for correct installation of the self-locking nut to the affected part.
>
> For the reason described above, this [EASA] AD requires repetitive inspections for correct installation of the self-locking nut to the affected part and, depending on findings, accomplishment of applicable corrective action(s) and replacement of the self-locking nut. This [EASA] AD also provides an optional terminating action for the repetitive inspections.

You may examine the MCAI in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2021–1070.

In the NPRM, the FAA proposed to require replacing the rudder T-yoke axle with an improved rudder T-yoke axle. The FAA is issuing this AD to prevent movement of the T-yoke axle. The unsafe condition, if not addressed, could result in reduced control of the airplane.

Discussion of Final Airworthiness Directive

Comments

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

Request To Include New Mandatory Service Bulletin Published by DAI in the NPRM

DAI requested that the FAA revise the NPRM to include recently published Diamond Aircraft Mandatory Service Bulletin DAI MSB 42–143 and MSB 42NG–086, dated December 23, 2021 (issued as one document), and explained this service bulletin further rectifies the unsafe condition of the movement of the T-yoke axle by specifying instructions to apply torque seal marks to the head of the T-yoke axle and to the self-locking nut. DAI further explained that the temporary revision of the aircraft maintenance manual (AMM) specifies visual inspection of these torque seal marks during every annual inspection. According to DAI, the additional visual inspection of the torque seal marks incorporated in Diamond Aircraft Mandatory Service Bulletin DAI MSB 42–143 and MSB 42NG–086, dated December 23, 2021, replaces the ''Inspection of Rudder T-yoke axle Nut for Looseness'' section of Diamond Aircraft Mandatory Service Bulletin DAI MSB 42–137/1 and MSB 42NG–079/1, dated December 11, 2021 (issued as one document), that was previously mandated by EASA AD 2019–0302.

The FAA disagrees. In the NPRM, the FAA did not propose to require the

repetitive inspection of the T-yoke axle nut, as specified in Diamond Aircraft Mandatory Service Bulletin DAI MSB 42–137/1 and MSB 42NG–079/1, dated December 11, 2021, to correct the unsafe condition, but instead proposed to require replacement of the rudder T-yoke axle with an improved rudder T-yoke axle. Therefore, Diamond Aircraft Mandatory Service Bulletin DAI MSB 42–143 and MSB 42NG–086, dated December 23, 2021, is not required by the FAA to correct the unsafe condition. If EASA issues an AD to mandate additional actions specified in DAI service information, the FAA will evaluate the requirements in the EASA AD and consider additional rulemaking.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Recommended Service Bulletin DAI RSB 42–139 and DAI RSB 42NG–081, dated October 21, 2019 (issued as one document), published with DAI Work Instruction WI–RSB 42–139 and WI–RSB 42NG–081, Revision 1, dated October 24, 2019 (issued as one document) attached. The service bulletin specifies complying with the work instruction, which contains procedures for replacing the rudder T-yoke axle with an improved (additional retaining pin) rudder T-yoke axle. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Differences Between This AD and the MCAI

The MCAI applies to the Model DA 42 M airplane, and this AD does not because it does not have an FAA type certificate.

The MCAI requires repetitively inspecting the self-locking nut until the rudder T-yoke axle is replaced with improved part number (P/N) D60–5320–00–32. This AD requires installing rudder T-yoke axle P/N D60–5320–00–32 and does not have an inspection requirement.

Costs of Compliance

The FAA estimates that this AD affects 193 airplanes of U.S. registry. The FAA estimates that it would take about 6 work-hours to replace the rudder T-yoke axle and require parts costing $166. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost of this AD on U.S. operators to be $130,468 or $676 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–21–15 Diamond Aircraft Industries GmbH: Amendment 39–22214; Docket No. FAA–2021–1070; Project Identifier 2020–CE–004–AD.

(a) Effective Date

This airworthiness directive (AD) is effective December 14, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Model DA 42, DA 42 NG, and DA 42 M–NG airplanes, serial numbers 42.004 through 42.391, 42.394 through 42.396, 42.399 through 42.402, 42.405 through 42.416, 42.427, 42.AC001 through 42.AC135, 42.AC137 through 42.AC145, 42.AC148, 42.AC150 through 42.AC152, 42.MN001 through 42.MN034, 42.MN037 through 42MN042, 42.MN050 through 42.MN055, 42.MN057, 42.MN058, 42.MN100 through 42.MN103, 42.N001 through 42.N067, 42.N100 through 42.N250, 42.N300 through 42.N381, 42.N391, 42.NC001 through 42.NC004, and 42.NC006 through 42.NC008, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5320, Fuselage Miscellaneous Structure.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a loose rudder T-yoke axle nut. The FAA is issuing this AD to prevent movement of the T-yoke axle. The unsafe condition, if not addressed, could result in reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 100 hours time-in-service after the effective date of this AD or 12 months after the effective date of this AD, whichever

occurs first, replace rudder T-yoke axle part number (P/N) LN 9037–M6x90 with rudder T-yoke axle P/N D60–5320–00–32 in accordance with the Instructions, section III, in Diamond Aircraft Work Instruction WI–RSB 42–139 and WI–RSB 42NG–081, Revision 1, dated October 24, 2019 (issued as one document) attached to Diamond Aircraft Recommended Service Bulletin DAI RSB 42–139 and DAI RSB 42NG–081, dated October 21, 2019.

(2) As of the effective date of this AD, do not install rudder T-yoke axle P/N LN 9037–M6x90 on any airplane.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Additional Information

(1) For more information about this AD, contact Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; email: *penelope.trease@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0302, dated December 13, 2019, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2021–1070.

(j) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Recommended Service Bulletin DAI RSB 42–139 and DAI RSB 42NG–081, dated October 21, 2019 (issued as one document), published with DAI Work Instruction WI–RSB 42–139 and WI–RSB 42NG–081, Revision 1, dated October 24, 2019 (issued as one document) attached.

(ii) [Reserved]

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *diamondaircraft.com.*

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

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

Issued on October 7, 2022.

Christina Underwood,

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

[FR Doc. 2022–24370 Filed 11–8–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0982; Project Identifier MCAI–2021–00787–T; Amendment 39–22202; AD 2022–21–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by reports that the engine feed pressure switches were installed with no secondary locking mechanism and can become loose and cause a fuel leak. This AD requires initial and repetitive inspections at the engine feed pressure switch locations and installation of a flange adaptor with lockwire to terminate the repetitive inspections, as specified in a Transport Canada Civil Aviation (TCCA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 14, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 14, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0982; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2022–0982.

FOR FURTHER INFORMATION CONTACT: Joseph Catanzaro, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on July 29, 2022 (87 FR 45712). The NPRM was prompted by AD CF–2021–50, dated December 21, 2021, issued by TCCA, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that certain fuel system pressure switches have been installed on the left-hand and right-hand wings without a secondary locking feature (lockwire). This condition may allow the fuel pressure switches to become loose and allow fuel to leak in the affected areas, creating a fire hazard.

In the NPRM, the FAA proposed to require initial and repetitive inspections at the engine feed pressure switch locations and installation of a flange adaptor with lockwire to terminate the repetitive inspections, as specified in TCCA AD CF–2021–50. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0982.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

TCCA AD CF–2021–50 specifies procedures for repetitive general visual inspections of the torque identification stripes, torquing of the fuel pressure switches, and installation of lockwire at the two alternating current (AC) boost pump cartridges; repetitive general visual inspections of the torque identification stripes and torquing of the fuel pressure switches at the two engine feed pressure switches; and installation of a new flange adaptor and lockwire, which terminates the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 60 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 27 work-hours × $85 per hour = $2,295	$811	Up to $2,295	$137,700

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
14 work-hours × $85 per hour = $1,190	$0	$1,190

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–21–03 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22202; Docket No. FAA–2022–0982; Project Identifier MCAI–2021–00787–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 14, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) AD CF–2021–50, dated December 21, 2021 (TCCA AD CF–2021–50).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports that the engine feed pressure switches were installed with no secondary locking mechanism and can become loose and cause a fuel leak. The FAA is issuing this AD to address the absence of a secondary locking feature (lockwire) on the fuel pressure switches, which may allow them to become loose and allow fuel to leak in the affected areas, creating a fire hazard.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, TCCA AD CF–2021–50.

(h) Exception to TCCA AD CF–2021–50

(1) Where TCCA AD CF–2021–50 refers to hours air time, this AD requires using flight hours.

(2) Where TCCA AD CF–2021–50 refers to its effective date, or 14 July 2021, the effective date of TCCA AD CF–2021–21, this AD requires using the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(j) Additional Information

For more information about this AD, contact Joseph Catanzaro, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *9-avs-nyaco-cos@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Transport Canada Civil Aviation (TCCA) AD CF–2021–50, dated December 21, 2021.

(ii) [Reserved]

(3) For TCCA AD CF–2021–50, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation*.

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

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

Issued on September 28, 2022.

Christina Underwood,

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

[FR Doc. 2022–24311 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0986; Project Identifier MCAI–2021–01440–T; Amendment 39–22201; AD 2022–21–02]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2000–20–15, which applied to certain Airbus SAS Model A300 and A300–600 series airplanes. AD 2000–20–15 required a high frequency eddy current (HFEC) inspection to detect cracking of the rear fittings of fuselage frame FR40 at stringer 27, and repetitive inspections or repair, as applicable. In lieu of accomplishing the repetitive inspections, AD 2000–20–15 provided a modification that would allow the inspection to be deferred for a certain period of time. This AD was prompted by cracking of the rear fittings of fuselage frame FR40 at stringer 27, and a determination that reduced compliance times are necessary. This AD removes airplanes from the applicability, and continues to require the actions in AD 2000–20–15, but at reduced compliance times, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 14, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 14, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0986; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this IBR material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2022–0986.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large

Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2000–20–15, Amendment 39–11926 (65 FR 60349, October 11, 2000) (AD 2000–20–15). AD 2000–20–15 applied to certain Airbus SAS Model A300 and A300–600 series airplanes. AD 2000–20–15 required a HFEC inspection to detect cracking of the rear fittings of fuselage frame FR40 at stringer 27, and repetitive inspections or repair, as applicable. In lieu of accomplishing the repetitive inspections, AD 2000–20–15 provides a modification that would allow the inspection to be deferred for a certain period of time. The FAA issued AD 2000–20–15 to address fatigue cracking of the rear fittings of fuselage frame FR40 at stringer 27, which could result in reduced structural integrity of the airplane.

The NPRM published in the **Federal Register** on August 2, 2022 (87 FR 47144). The NPRM was prompted by EASA AD 2021–0288, dated December 21, 2021, issued by the European Union Aviation Safety Agency (referred to after this as the MCAI). The MCAI states that cracking of the rear fittings of fuselage frame FR40 at stringer 27 was found, and a determination made that reduced compliance times are necessary.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0986.

In the NPRM, the FAA proposed to continue to require the actions in AD 2000–20–15, but at reduced compliance times, as specified in EASA AD 2021–0288, dated December 21, 2021. The NPRM also proposed to remove airplanes from the applicability, as specified in EASA AD 2021–0288. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0288 specifies procedures for repetitive inspections of the rear fittings of fuselage frame FR40 at stringer 27 for cracking, and repair of any cracking. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 67 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	6 work-hours × $85 per hour = $510	$0	$510	$34,170, per inspection cycle.

The FAA estimates the following costs to do any necessary repair based on the results of any required inspection. The FAA has no way of determining the number of aircraft that might need this repair:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
31 work-hours × $85 per hour = $2,635	$132	$2,767

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive AD 2000–20–15, Amendment 39–11926 (65 FR 60349, October 11, 2000) (AD 2000–20–15); and
■ b. Adding the following new airworthiness directive:

2022–21–02 Airbus SAS: Amendment 39–22201; Docket No. FAA–2022–0986; Project Identifier MCAI–2021–01440–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 14, 2022.

(b) Affected ADs

This AD replaces AD 2000–20–15, Amendment 39–11926 (65 FR 60349, October 11, 2000) (AD 2000–20–15).

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as specified in European Union Aviation Safety Agency (EASA) AD 2021–0288, dated December 21, 2021 (EASA AD 2021–0288).

(1) Model A300 B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–603 and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by cracking of the rear fittings of fuselage frame FR40 at stringer 27, and a determination that reduced compliance times are necessary. The FAA is issuing this AD to address fatigue cracking of the rear fittings of fuselage frame FR40 at stringer 27, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0288.

(h) Exceptions to EASA AD 2021–0288

(1) Where paragraph (1) of EASA AD 2021–0288 specifies, for certain conditions, using the compliance time and repetitive intervals ''in the applicable SB,'' and where ''the applicable SB'' specifies that the ''1st inspection will be done within [a specified number of flight cycles] after receipt of the Service Bulletin,'' this AD requires compliance within the specified number of flight cycles after the effective date of this AD.

(2) Where EASA AD 2021–0288 refers to its effective date, this AD requires using the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2021–0288 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0288 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

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

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on December 14, 2022.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0288, dated December 21, 2021.

(ii) [Reserved]

(4) For EASA AD 2021–0288, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on September 28, 2022.

Christina Underwood,

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

[FR Doc. 2022–24310 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0243; Airspace Docket No. 22–AGL–5]

RIN 2120–AA66

Amendment of VOR Federal Airways V–26 and V–63; Establishment of Area Navigation (RNAV) Route T–464; and Revocation of the Wausau, WI, Low Altitude Reporting Point; in the Vicinity of Wausau, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published by the FAA in the **Federal Register** on October 31, 2022, that amends VHF Omnidirectional Range (VOR) Federal airways V–26 and V–63; establishes Area Navigation (RNAV) route T–464; and revokes the Wausau, WI, Low Altitude Reporting Point in the vicinity of Wausau, WI. In the new RNAV route T–464, the final rule identified the TONOC, WI, route

point as a waypoint (WP), in error. This action makes editorial corrections to the reference of the TONOC, WI, WP to change it to be reflected as a Fix. This correction is necessary to match the FAA National Airspace System Resource (NASR) database information.

DATES: Effective date 0901 UTC, December 29, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (87 FR 65521; October 31, 2022), amending VOR Federal airways V–26 and V–63; establishing RNAV route T–464; and revoking the Wausau, WI, Low Altitude Reporting Point in the vicinity of Wausau, WI. Subsequent to publication, the FAA determined that the TONOC, WI, route point was inadvertently identified as a WP, in error. The correct route point reference is the TONOC, WI, Fix. This rule corrects that error by changing the reference of the TONOC, WI, WP to the TONOC, WI, Fix.

This is an editorial change only to match the FAA NASR database information and does not alter the alignment of the affected T–464 route.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV T-route listed in this document will be published subsequently in FAA Order JO 7400.11.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, references to the TONOC, WI, WP that is reflected in Docket No. FAA–2022–0243, as published in the **Federal Register** of October 31, 2022 (87 FR 65521), FR Doc. 2022–22165, is corrected as follows:

■ 1. On page 65523, correct the table for T–464 CUSAY, WI to CHURP, WI [New] to read:

T–464 CUSAY, WI TO CHURP, WI [NEW]

CUSAY, WI	WP	(Lat. 46°01′07.84″ N, long. 091°26′47.14″ W)
TONOC, WI	FIX	(Lat. 45°03′47.56 ″ N, long. 091°38′11.87″ W)
EDGRR, WI	WP	(Lat. 44°51′31.83″ N, long. 089°56′43.06″ W)
HEVAV, WI	WP	(Lat. 44°50′48.43″ N, long. 089°35′12.51″ W)
CHURP, WI	FIX	(Lat. 44°42′54.82″ N, long. 088°56′48.69″ W)

* * * * *

Issued in Washington, DC, on November 3, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–24387 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–990]

Schedules of Controlled Substances: Placement of Ganaxolone in Schedule V

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule with request for comments published in the **Federal Register** on June 1, 2022, placing ganaxolone (3α-hydroxy-3β-methyl-5α-pregnan-20-one) and its salts in schedule V of the Controlled Substances Act. With the issuance of this final rule, the Drug Enforcement Administration maintains ganaxolone, including its salts, in schedule V of the Controlled Substances Act.

DATES: The effective date of this rule is December 9, 2022.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Chief, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

Background and Legal Authority

Under the Controlled Substances Act (CSA), as amended in 2015 by the Improving Regulatory Transparency for New Medical Therapies Act (Pub. L. 114–89), when the Drug Enforcement Administration (DEA) receives notification from the Department of Health and Human Services (HHS) that the Secretary has approved a certain new drug and HHS recommends control in the CSA schedule II–V, DEA is required to issue an interim final rule (IFR), with opportunity for public comment and to request a hearing, controlling the drug within a specified 90-day timeframe and subsequently to issue a final rule. 21 U.S.C. 811(j). When controlling a drug pursuant to subsection (j), DEA must apply the scheduling criteria of 21 U.S.C. 811 (b) through (d) and 812(b). 21 U.S.C. 811(j)(3).

On March 18, 2022, DEA received notification that FDA approved, on that same date, a new drug application for ZTALMY (ganaxolone oral suspension) for the treatment of seizures associated with cyclin-dependent kinase-like 5 deficiency disorder in patients two years or older. In addition, on March 14, 2022, HHS recommended that DEA place ganaxolone and its salts in schedule V of the CSA. On June 1, 2022, DEA, pursuant to 21 U.S.C. 811(j), published an IFR in the **Federal Register** to make ganaxolone (including its salts) a schedule V controlled substance. 87 FR 32991.

The IFR referenced two supporting documents and stated they were available for viewing on the electronic docket. Specifically, the two documents cited are as follows: (1) HHS's March 2022 scientific and medical evaluation and scheduling recommendation (HHS Eight-Factor analysis), and (2) DEA's May 2022 Eight-Factor analysis. DEA has discovered that these documents were not posted to the electronic docket. However, they were available for viewing at DEA headquarters. Upon publication of this final rule, DEA will post to the docket DEA's and HHS's analyses that should have accompanied the IFR.

The IFR provided an opportunity for interested persons to submit comments, as well as file a request for a hearing or waiver of a hearing, on or before July 1, 2022. DEA did not receive any comments or requests for a hearing or

waiver of a hearing. Based on the rationale set forth in the IFR, DEA adopts the IFR, without change.

Requirements for Handling Ganaxolone

As indicated above, ganaxolone has been a schedule V controlled substance by virtue of an IFR issued by DEA in June 2022. Thus, this final rule does not alter the regulatory requirements applicable to handlers of ganaxolone that have been in place since that time. Nonetheless, for informational purposes, we restate here those requirements. Ganaxolone is subject to the CSA's schedule V regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule V substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, ganaxolone must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312. Any person who intends to handle ganaxolone and is not registered with DEA must submit an application for registration and may not handle ganaxolone unless DEA has approved that application, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. These registration requirements, however, are not applicable to patients (end users) who possess ganaxolone pursuant to a lawful prescription.

2. *Disposal of stocks.* Any person who obtains a schedule V registration to handle ganaxolone and subsequently determines they are no longer willing or able to maintain such registration must surrender all quantities of ganaxolone, or may transfer all quantities of ganaxolone to a person registered with DEA. Ganaxolone must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable Federal, State, local, and tribal laws.

3. *Security.* Ganaxolone is subject to schedule III–V security requirements for DEA registrants, and it must be handled and stored in accordance with 21 CFR 1301.71–1301.77. Non-practitioners handling ganaxolone must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93. These requirements, however, are not applicable to patients (end users) who possess ganaxolone pursuant to a lawful prescription.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of ganaxolone must comply with 21 U.S.C. 825, and be in accordance with 21 CFR part 1302.

5. *Inventory.* Since June 1, 2022, every DEA registrant who possesses any quantity of ganaxolone was required to keep an inventory of ganaxolone on hand, pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. These requirements, however, are not applicable to patients (end users) who possess ganaxolone pursuant to a lawful prescription.

6. *Records and Reports.* DEA registrants must maintain records and submit reports for ganaxolone, pursuant to 21 U.S.C. 827 and 832(a), and in accordance with 21 CFR 1301.74(b) and (c) and 1301.76(b) and parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for ganaxolone, or products containing ganaxolone, must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule V controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of ganaxolone may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the Federal Food, Drug, and Cosmetic Act, as applicable, and the CSA.

9. *Importation and Exportation.* All importation and exportation of ganaxolone must comply with 21 U.S.C. 952, 953, 957, and 958, and be in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving ganaxolone not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

This final rule, without change, affirms the amendment made by the IFR that is already in effect. Section 553 of the Administrative Procedure Act (5 U.S.C. 553) generally requires notice and comment for rulemakings. However, 21 U.S.C. 811(j) provides that in cases where a certain new drug is (1) approved by HHS, under section 505(c) of the Federal Food, Drug, and Cosmetic Act, and (2) HHS recommends control in CSA schedule II–V, DEA shall issue an IFR scheduling the drug within 90 days. Additionally, subsection (j) specifies that the rulemaking shall become immediately effective as an IFR without requiring DEA to demonstrate good cause. DEA issued an IFR on June 1, 2022, and solicited public comments on that rule. Subsection (j) further provides that after giving interested persons the opportunity to comment and to request a hearing, the Attorney General, as delegated to the Administrator of DEA, shall issue a final rule in accordance with the scheduling criteria of 21 U.S.C. 811(b) through (d) and 812(b). As stated above, DEA did not receive any comments or requests for a hearing or waiver of a hearing. DEA is now issuing the final rule in accordance with subsection (j).

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a) and (j), this scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply to this final rule.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* DEA has determined that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Accordingly, the interim final rule amending 21 CFR part 1308, which published on June 1, 2022 (87 FR 32991), is adopted as a final rule without change.

Signing Authority

This document of the Drug Enforcement Administration was signed on November 1, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–24157 Filed 11–8–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–1046]

Specific Listing for 1-boc-4-AP, a Currently Controlled List I Chemical

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is establishing a specific listing and DEA Chemical Control Number for *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (also known as 1-boc-4-AP; and CAS Number: 125541–22–2) and its salts as a list I chemical under the Controlled Substances Act. Although 1-boc-4-AP is not specifically listed as a list I chemical of the Controlled Substances Act with its own unique Chemical Control Number, it has been regulated as a list I chemical in the United States since May 15, 2020, as a carbamate of *N*-phenylpiperidin-4-amine, a list I chemical. Therefore, DEA is simply amending the list I chemicals list in its regulations to include a separate listing for 1-boc-4-AP, a currently controlled list I chemical.

DATES: Effective date November 9, 2022.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: *tert*-Butyl 4-(phenylamino)piperidine-1-carboxylate (also known as 1-boc-4-AP) is a chemical that is structurally related to *N*-phenylpiperidin-4-amine (also known as *N*-phenyl-4-piperidinamine, 4-anilinopiperidine, and 4-AP). *N*-Phenylpiperidin-4-amine, including its amides, its carbamates, and its salts, is listed as a list I chemical at 21 CFR 1310.02(a). See 85 FR 20822 (April 1, 2020) (effective May 15, 2020). The chemical structure of 1-boc-4-AP defines it as a carbamate of *N*-phenylpiperidin-4-amine. Accordingly, under 21 CFR 1310.02(b), 1-boc-4-AP, as a carbamate of *N*-phenylpiperidin-4-amine, is and continues to be a regulated list I chemical.[1]

Legal Authority

The Controlled Substances Act (CSA) and the Drug Enforcement Administration's (DEA) implementing regulations give the Attorney General, as delegated to the Administrator of DEA (Administrator), the authority to specify, by regulation, a chemical as a ''list I chemical.'' [2] This term refers to a chemical that is used in manufacturing a controlled substance in violation of subchapter I (Control and Enforcement) of the CSA and is important to the manufacture of the controlled substance.[3] The current list of all list I chemicals is available in 21 CFR 1310.02(a).

In addition, the United States is a Party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention), December 20, 1988, 1582 U.N.T.S. 95. Under Article 12 of the 1988 Convention, when the United States receives notification that a chemical has been added to Table I or Table II of the 1988 Convention, the United States is required to take measures it deems appropriate to monitor the manufacture and distribution of that chemical within the United States and to prevent its diversion, including measures related to international trade.

Background

In a letter dated May 27, 2022, the United Nations Office on Drugs and Crime, in accordance with Article 12, paragraph 6 of the 1988 Convention, informed the Permanent Mission of the United States of America to the United Nations (Vienna) that the Commission on Narcotic Drugs (CND) decided to place the chemical 1-boc-4-AP in Table I of the 1988 Convention (CND Dec/65/5) at its 65th Session on March 16, 2022.

[1] *N*-phenylpiperidin-4-amine, including its amides, its carbamates, and its salts, has been subject to list I chemical regulations since May 15, 2020, pursuant to a final rule (April 15, 2020; 85 FR 20822).

[2] 21 U.S.C. 802(34) and 871(b) and 21 CFR 1310.02(c).

[3] 21 U.S.C. 802(34) and 21 CFR 1300.02(b).

As discussed above in this final rule, 1-boc-4-AP—by virtue of being a carbamate of *N*-phenylpiperidin-4-amine—has been regulated as a list I chemical of the CSA since May 15, 2020.[4] Therefore, all regulations and criminal sanctions applicable to list I chemicals have been and remain applicable to 1-boc-4-AP.

Effect of Action

As discussed above, this rule does not affect the continuing status of 1-boc-4-AP as a list I chemical in any way. This action, as an administrative matter, merely establishes a separate, specific listing for 1-boc-4-AP in list I of the CSA and assigns a DEA chemical control number for the substance. This action will allow DEA to effectively monitor regulated transactions of 1-boc-4-AP, including the manufacture, distribution, importation, or exportation of 1-boc-4-AP, and to provide accurate reporting to the International Narcotics Control Board.

Chemical Mixtures of 1-boc-4-AP

Pursuant to the final rule published on April 15, 2020,[5] chemical mixtures containing 1-boc-4-AP have been and continue to be subject to regulatory requirements at any concentration—unless a manufacturer submits to DEA an application for exemption of a chemical mixture, DEA accepts the application for filing, and DEA exempts the chemical mixture in accordance with 21 CFR 1310.13 (Exemption of chemical mixtures by application).

Since even a small amount of 1-boc-4-AP can potentially yield a significant amount of controlled substances, DEA believes that the continued regulation of chemical mixtures containing any amount of 1-boc-4-AP as a list I chemical is necessary to prevent its illicit extraction, isolation, and use. 1-boc-4-AP is already subject to domestic control under list I as a carbamate of *N*-phenylpiperidin-4-amine, and DEA's current regulations provide that a chemical mixture containing any amount of *N*-phenylpiperidin-4-amine is a List I chemical. As a technical, conforming change in connection with the separate listing of 1-boc-4-AP, this rule modifies the ''Table of Concentration Limits'' in 21 CFR 1310.12(c) to reflect that a chemical mixture containing any amount of 1-boc-4-AP is subject to CSA chemical control provisions, including 21 CFR parts 1309, 1310, 1313, and 1316. No additional requirements are being imposed.

DEA has implemented an application process to exempt certain chemical mixtures from the requirements of the CSA and its implementing regulations.[6] Manufacturers may submit an application for exemption for those mixtures that do not meet the criteria set forth in 21 CFR 1310.12(d) for an automatic exemption. Pursuant to 21 CFR 1310.13(a), DEA may grant exempt status to a chemical mixture by publishing a final rule in the **Federal Register**, if DEA determines that: (1) The mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance, and (2) the listed chemical or chemicals cannot be readily recovered.

Requirements for Handling List I Chemicals

The listing of 1-boc-4-AP as a list I chemical continues to subject handlers (manufacturers, distributors, importers, and exporters) and proposed handlers to all of the regulatory controls and administrative, civil, and criminal actions applicable to the manufacture, distribution, importation, and exportation of a list I chemical. Since May 15, 2020, persons handling 1-boc-4-AP, including regulated chemical mixtures containing 1-boc-4-AP, have been required to comply with list I chemical regulations, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, imports, or exports), or proposes to engage in such handling, of 1-boc-4-AP or a chemical mixture containing 1-boc-4-AP, must obtain a registration pursuant to 21 U.S.C. 822, 823, 957, and 958. Regulations describing registration for list I chemical handlers are set forth in 21 CFR part 1309.

2. *Records and Reports.* Every DEA registrant must maintain records and submit reports to DEA with respect to 1-boc-4-AP pursuant to 21 U.S.C. 830 and in accordance with 21 CFR 1310. Pursuant to 21 CFR 1310.04, a record must be made and maintained for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

3. *Importation and Exportation.* All importation and exportation of 1-boc-4-AP must be done in compliance with 21 U.S.C. 957, 958, and 971 and in accordance with 21 CFR part 1313.

4. *Security.* All applicants and registrants must provide effective controls against theft and diversion in accordance with 21 CFR 1309.71–1309.73.

5. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, or otherwise dispose of a list I chemical or where records relating to those activities are maintained, are controlled premises as defined in 21 U.S.C. 880(a) and 21 CFR 1316.02(c). The CSA allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316, subpart A.[7]

6. *Liability.* Any activity involving 1-boc-4-AP not authorized by, or in violation of, the CSA is unlawful, and would subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest.

As discussed above, 1-boc-4-AP is currently and continues to be regulated as a list I chemical as a carbamate of *N*-phenylpiperidin-4-amine.

Pursuant to 5 U.S.C. 553(b)(3)(B), DEA finds that notice and comment rulemaking is unnecessary and that good cause exists to dispense with these procedures. The addition of a separate listing for 1-boc-4-AP and its DEA chemical control number in the list of list I chemicals in 21 CFR 1310.02(a) makes no substantive difference in the status of this chemical as a list I chemical, but instead is ''a minor or merely technical amendment in which the public is not particularly interested.'' *National Nutritional Foods Ass'n* v. *Kennedy,* 572 F.2d 377, 385 (2d Cir. 1978) (quoting S. Rep. No. 79–752, at 200 (1945)). *See also Utility Solid Waste Activities Group* v. *E.P.A.,* 236 F.3d 749, 755 (D.C. Cir. 2001) (the ''unnecessary'' prong ''is confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public'') (internal quotations and citation omitted). This rule is a ''minor'' or ''technical'' amendment to 21 CFR 1310 as it is ''insignificant in nature and impact, and inconsequential to the industry and

[4] 85 FR 20822 (April 15, 2020).

[5] 85 FR 20822.

[6] 21 CFR 1310.13.

[7] 21 U.S.C. 880.

public.'' Therefore, publishing a notice of proposed rulemaking and soliciting public comment are unnecessary.

In addition, because 1-boc-4-AP is already subject to domestic control under list I as a carbamate of *N*-phenylpiperidin-4-amine and no additional requirements are being imposed through this action, DEA finds good cause exists to make this rule effective immediately upon publication in accordance with 5 U.S.C. 553(d)(3). DEA is concerned that delaying the effective date of this rule potentially could cause confusion regarding the regulatory status of 1-boc-4-AP. 1-boc-4-AP is currently regulated as a list I chemical, and this level of control does not change with this rulemaking.

Executive Orders 12866 and 13563, Regulatory Planning and Review and Improving Regulation and Regulatory Review

This rule was developed in accordance with the principles of Executive Orders (E.O.) 12866 and 13563. This rule is not a significant regulatory action under E.O. 12866. 1-boc-4-AP is already regulated as a list I chemical in the United States, as a carbamate of the list I chemical *N*-phenylpiperidin-4-amine. In this final rule, DEA is merely making an administrative change by amending its regulations to separately list 1-boc-4-AP as a list I chemical and to assign the DEA chemical control number 8336 to this chemical. A separate listing for 1-boc-4-AP will not alter the status of 1-boc-4-AP as a list I chemical. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or other laws. As noted in the above section regarding the applicability of the APA, DEA determined that there is good cause to exempt this final rule from notice and comment. Consequently, the RFA does not apply.

Unfunded Mandates Reform Act of 1995 (UMRA)

In accordance with the UMRA, 2 U.S.C. 1501 *et seq.,* DEA has determined and certifies that this rule will not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under the UMRA.

Paperwork Reduction Act

The action does not impose a new collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This action will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This final rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects 21 CFR Part 1310

Administrative practice and procedure, Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, DEA amends 21 CFR part 1310 as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES; IMPORTATION AND EXPORTATION OF CERTAIN MACHINES

■ 1. The authority citation for 21 CFR part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 2. In § 1310.02, add reserved paragraph (a)(38) and paragraph (a)(39) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(a) * * *

(38) [Reserved]

(39) 1-boc-4-AP (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts	8336

* * * * *

■ 3. In § 1310.04:

■ a. Redesignate paragraphs (g)(1)(iii) through (xviii) as paragraphs (g)(1)(iv) through (xix), respectively; and

■ b. Add new paragraph (g)(1)(iii).

The addition reads as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *

(1) * * *

* * * * *

(iii) 1-boc-4-AP (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts.

* * * * *

■ 4. Section 1310.12 is amended by adding in alphabetical order in the table in paragraph (c) an entry for 1-boc-4-AP (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

	DEA chemical code No.	Concentration	Special conditions
List I Chemicals			
* * *	*	* *	* *
1-boc-4-AP (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts.	8336	Not exempt at any concentration.	Chemical mixtures containing any amount of 1-boc-4-AP (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and its salts are not exempt.
* * *	*	* *	* *

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on November 1, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–24155 Filed 11–8–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 630 and 635

[FHWA Docket No. FHWA–2018–0017]

RIN 2125–AF83

Indefinite Delivery and Indefinite Quantity Contracts for Federal-Aid Construction

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On November 16, 2020, FHWA published an interim final rule (IFR) amending FHWA's regulations to allow States the ability to use the Indefinite Delivery and Indefinite Quantity (ID/IQ) method of contracting, including job order contracting (JOC), on Federal-aid highway projects, under certain circumstances, on a permanent basis. This action adopts the IFR with a few minor changes and technical amendments. Most provisions from the IFR remain unchanged. This action also restores a missing provision inadvertently removed during an earlier, unrelated rulemaking.

DATES: This final rule is effective December 9, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. James DeSanto, Office of Preconstruction, Construction, and Pavements, *james.desanto@dot.gov,* (614) 357–8515, or Mr. Patrick Smith, Office of the Chief Counsel, *patrick.c.smith@dot.gov,* (202) 366–1345, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document, as well as the IFR, advance notice of proposed rulemaking, supporting materials, and all comments received may be viewed online through the Federal eRulemaking portal at: *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *www.FederalRegister.gov* and the Government Publishing Office's web page at: *www.GovInfo.gov.*

Background

The ID/IQ method of contracting allows a project owner to procure an unknown quantity of supplies or services for a fixed time. As described in FHWA's IFR, 85 FR 72919 (Nov. 16, 2020), government agencies use this method when they cannot determine, above a specified minimum, the precise quantities of supplies or services that they will require during the contract period. Contracting agencies use other names for these and similar types of contracts, including JOC contracts, master contracts, on-call contracts, area-wide contracts, continuing contracts, design-build push-button contracts, push-button contracts, stand-by contracts, and task order contracts.

With the publication of FHWA's IFR, FHWA operationalized the ID/IQ method of contracting, including JOC, for Federal-aid construction projects. Previously, this contracting technique was only authorized on an experimental basis under FHWA's Special Experimental Project No. 14 (SEP–14). Allowing ID/IQ contracting on a permanent basis provides benefits to State departments of transportation (State DOT) and other contracting agencies, including expediting project delivery, increasing administrative efficiency, reducing project costs, and increasing flexibility for State DOTs to use Federal-aid funds on certain projects. Additional discussion on State DOT and local public agency experience with ID/IQ contracting under FHWA's SEP–14 program, as well as FHWA's previous steps to operationalize ID/IQ contracting, is provided in the IFR.

Interim Final Rule

On November 16, 2020, FHWA published its IFR in the **Federal Register** at 85 FR 72919, adopting new regulations and soliciting public comments on its proposal. Comments were submitted by six State DOTs, one metropolitan planning organization, one business, and one individual. The comments are available for examination in the docket (FHWA–2018–0017) at *www.regulations.gov.*

Analysis of Interim Final Rule Comments and FHWA Response

The following discussion summarizes the comments submitted to the docket on the IFR, notes where and why FHWA has made changes in the final rule, and explains why certain recommendations or suggestions have not been incorporated into the final rule.

In general, most commenters supported the rule. Comments generally

related to requests for clarification or interpretation of various provisions in the regulatory text. Some commenters responded to questions about specific issues posed by FHWA in the IFR. FHWA has carefully reviewed and analyzed all comments and revises the final rule as discussed below.

General

The San Diego Association of Governments (SANDAG) expressed support for the IFR. SANDAG cited its previous experience with ID/IQ contracting under the SEP–14 program and stated the method achieved quicker project delivery; reduced design, procurement, and construction costs; and provided a more efficient and flexible contracting method to address changing field conditions. FHWA appreciates these comments and finds no substantive response is needed.

The Delaware Department of Transportation (Delaware DOT) expressed overall support for the IFR. It explained that it generally favors less Federal requirements with more deference to State and local agencies. The Delaware DOT explained that its use of multiple-award ID/IQ contracts enables it to deliver relatively small projects very quickly, thereby benefitting the public significantly earlier than traditional procurement methods. Delaware DOT also cited reduced staff costs and efforts related to administration of ID/IQ projects, which also enables project costs to be reasonably managed. FHWA appreciates these comments and finds no substantive response is needed.

Gordian, a company in Greenville, South Carolina, expressed its support for fully operationalizing ID/IQ contracting, including JOC. In addition, Gordian shared its views on industry best practices and was responsive to FHWA's questions in the IFR, as discussed in later sections of this notice.

Cost and Time Savings

In the IFR, FHWA asked a series of questions about cost and time savings based on the use of the ID/IQ contracting method. FHWA received a few responsive comments which generally noted that cost savings would be realized, and that ID/IQ contracting may reduce procurement cycle time. FHWA received little additional data that was not considered in its original analysis. Some of the State DOT commenters explained that they did not yet have enough experience and data with this contracting to provide answers.

Among the few responsive comments, Gordian provided examples of Federal-aid projects saving between 5 and 20 percent relative to other contracting methods. Gordian also maintained that using ID/IQ may reduce procurement cycle time for straightforward construction projects by as much as 90 percent.

In addition, the Pennsylvania Department of Transportation (PennDOT) explained that it does not have experience with ID/IQ contracting to date but anticipates ID/IQ would reduce project or construction costs over the life of the contract. It also expects that over time the prices associated with ID/IQ contracts may be slightly lower than traditional contracts due to the anticipation of consistent work for contractors and the ease of assigning unanticipated or emergency work.

FHWA agrees with the responsive comments that ID/IQ contracting is likely to reduce project costs and expedite project delivery of certain highway projects. FHWA did not receive sufficient new data to warrant revising its analysis of cost savings from operationalizing ID/IQ contracting on a permanent basis provided under the IFR.

Section-by-Section Analysis

Part 635—Construction and Maintenance

Subpart A—Contract Procedures

Section 635.110—Licensing and Qualification of Contractors

The Idaho Transportation Department inquired about licensing and bonding of ID/IQ projects, specifically whether licensing and bonding requirements should consider the value of the ''master agreement'' (ID/IQ contract) or the value of the work order.

In general, FHWA's contracting regulations do not specify the process or provide requirements for furnishing performance bonds on Federal-aid projects. In general, contracting agencies may use their own procedures and requirements for bonding, insurance, prequalification, qualification, or licensing of contractors on Federal-aid projects as long as those procedures do not restrict competition (23 CFR 635.110(b)). For example, an agency may choose to adjust its requirements to facilitate more small business participation. The revision in 23 CFR 635.110(f) in the IFR simply clarifies that the general requirement also applies to ID/IQ contracting. FHWA has considered the comment and believes no further revision to this section is necessary.

Section 635.112—Advertising for Bids and Proposals

The Michigan Department of Transportation recommended that the requirement for FHWA Division Administrator prior approval of addenda be delegated to State DOTs. FHWA believes this approval as set forth in the IFR is consistent with similar requirements for other contracting methods and is subject to the statutory assumption provisions under 23 U.S.C. 106(c). FHWA has considered this comment and believes FHWA divisions and State DOTs may incorporate project-specific approval actions related to ID/IQ contracting into their agreements under 23 U.S.C. 106(c)(3), thus, no further revision to the rule is required.

Section 635.114—Award of Contract and Concurrence in Award

In the IFR, FHWA added § 635.114(m) requiring ID/IQ contracts be awarded in accordance with the solicitation document. FHWA revised this section in a manner consistent with other contracting methods, recognizing that contracting agencies desire flexibility when configuring their ID/IQ solicitations and contracts. While FHWA did not receive public comments specifically addressing the amendment to the regulation in the IFR at § 635.114(m), and FHWA is not making any changes to that section, FHWA recommends that contracting agencies ensure their ID/IQ solicitation documents contain adequate provisions, where appropriate, to address analyzing bids for unbalancing or extreme variations within bids as compared to the engineer's estimate.

Subpart C—Physical Construction Authorization

Section 635.309—Authorization

In FHWA's construction manager/general contractor (CM/GC) final rule, published in the **Federal Register** on December 2, 2016, at 81 FR 86928, FHWA clarified the provision at § 635.309(p)(1)(vi) established requirements for design-build Request for Proposals and CM/GC initial solicitation documents. Through an administrative error, two sections, §§ 635.309(p)(1)(vi)(A) and (B) were removed from the regulation. FHWA has restored the language that predates the CM/GC final rule to correct its inadvertent removal and restore the logical meaning and remainder of the provision.

While these changes were not included in the previous IFR for this rulemaking, FHWA has determined that

prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because these provisions constitute a technical correction to fix a clear error in the CFR language to restore the missing content previously established through rulemaking. Furthermore, prior notice and an opportunity for public comment on these provisions is contrary to the public interest because it republishes substantive provisions which were removed in error. For these reasons, FHWA finds good cause to forgo further procedures for notice and opportunity for comment under 5 U.S.C. 553(b)(3)(B).

Subpart F—Indefinite Delivery/ Indefinite Quantity (ID/IQ) Contracting

Section 635.602—Definitions

The Oregon Department of Transportation (Oregon DOT) raised questions seeking clarification on contractual terms used in the IFR. The Oregon DOT asked if FHWA intended the term ''contract'' as used throughout the rule, and specifically in § 635.604(a)(6), to mean the ID/IQ contract, or the work order. The Oregon DOT argued that an ID/IQ contract is a ''master contract'' or an ''agreement-to-agree'' and that the work order is an actual contract, thereby clouding the understanding of optional contract extensions in §§ 635.604(a)(6)(i) through (iii).

The IFR provides a definition of the term ID/IQ contract, which includes defining it as ''the principal contract between the contracting agency and the contractor.'' In addition, the definition of ID/IQ contract also contains common names used by agencies around the Nation, one of which is ''master contract.'' Also, the IFR provides a definition of work order, stating it ''means the contract document issued for a definite scope of work under an ID/IQ contract.''

Throughout the rule, FHWA has attempted to consistently use the terms above to clearly convey our meaning. FHWA appreciates the points raised and has carefully considered the comments. While FHWA disagrees that the definitions of ID/IQ contract and work order are insufficient, we acknowledge that the use of the undefined term related to optional contract extensions has the potential to cause confusion. As discussed below, FHWA has modified §§ 635.604(a)(6)(i) and 635.604(a)(6)(ii) to consistently refer to optional contract extensions.

Section 635.604—ID/IQ Requirements

635.604(a)(3)(ii)

The IFR includes a provision in § 635.604(a)(3)(ii) addressing methods to adjust prices when optional contract extensions are included in an ID/IQ contract and solicitation. While FHWA did not receive public comments to the docket on this topic, we believe additional clarification on this point in the preamble may assist contracting agencies when developing ID/IQ projects.

For clarification, as implied by the plain language, FHWA does not intend the phrase in § 635.604(a)(3)(ii), ''specify the basis, such as a published index'' to exclude alternatives other than a published index. FHWA views other methods, such as predetermining and publishing a fixed percentage in the solicitation, or requesting bidders supply an adjustment percentage with their bid, as transparent and objective means of adjusting prices for optional contract extensions, which may reasonably be used under this rule. FHWA is not making any revisions to the proposed regulatory text as a result of this clarification.

635.604(a)(3)(iii)

In FHWA's IFR, we asked commenters to address specific questions relating to the rule. Two of the questions related to this section of the regulation: one question asked about FHWA requiring estimated minimum and maximum quantities to be provided in both ID/IQ solicitations and contracts or requiring estimates for any other reason; another asked if FHWA should require agencies to specify the estimated minimum and maximum quantities that may be expected under each work order.

The Delaware DOT responded by opposing the requirement to specify estimated minimum and maximum quantities of services for ID/IQ contracts. They cited their success in bidding ID/IQ projects using an expected or approximate amount of work, while clearly noting in the contract document that issuing work orders is not guaranteed.

Gordian recommended against the requirement to specify estimated minimum and maximums, thereby providing flexibility to contracting agencies. Gordian explained that in its experience some agencies may elect to include this information, but in its opinion it is not necessary for successful implementation. Gordian suggested a more appropriate approach would be to require an estimated annual dollar value of work, on which contractors could base their initial bid.

The PennDOT commented that it does not recommend requiring estimated minimum and maximum quantities in ID/IQ solicitations and contracts but does recommend including a requirement for estimating minimum and maximum quantities expected in a work order.

The Vermont Agency of Transportation (VTrans) advised against requiring estimated minimum and maximum quantities in ID/IQ solicitations and contracts, citing the difficulty to program all Federal and State projects that may utilize ID/IQ contracting over a period of 5 years. The VTrans described such an exercise as speculative and unreliable. They further stated their process of using both line items and lump sum bidding on work orders has been efficient and thus recommended against requiring an estimate of minimum and maximum quantities expected for a work order.

FHWA appreciates the responses and has carefully considered the comments. FHWA agrees it is not necessary to mandate that contracting agencies specify the minimum and maximum quantity of services to be acquired under an ID/IQ contract. However, a reasonable estimate of quantities in the solicitation is necessary to serve as a basis for bidders to base their prices as well as serving as a basis for analyzing bids. For this reason, FHWA has modified this section accordingly to require a reasonable estimate of quantities in the solicitation. We also agree with the importance of clearly stating in the solicitation, when appropriate, that the estimate of quantities does not guarantee work orders will be issued. However, even if a minimum award provision is included in the solicitation or contract, § 635.604(a)(7), which remains unmodified under the final rule, provides that a contracting agency's payment to a contractor to satisfy a minimum award provision that is not supported by eligible work is not eligible for Federal-aid participation.

635.604(a)(5)

The IFR included two questions specific to the topic of multiple award ID/IQ contracts. One question solicited input on criteria to be used when issuing work orders under multiple-award contracts, while another question asked commenters to consider if typical cause and convenience termination clauses are sufficient to remove deficient contractors from consideration in a multiple award pool.

Several commenters cited contractor availability as a reasonable criterion to use when issuing work orders in a

multiple award ID/IQ contract. The Delaware DOT recommended a process where the low-cost contractor is first offered a work order, and if it declines or is unavailable to start, the contracting agency will then offer the work order opportunity to the next low-cost contractor. The Delaware DOT also commented that if the low-cost contractor is in liquidated damages on the project or other active projects, that contractor would not be eligible to be issued additional work orders. In response, FHWA believes fair and competitive procedures, set forth in the solicitation and ID/IQ contract as required in § 635.604(a)(3)(v), may account for contractor availability or liquidated damages status. However, awardees of multiple award ID/IQ contracts must have a fair opportunity to be considered for each work order, as stated in this section. Therefore, no revisions are made to the regulatory text to address this comment.

The Delaware DOT also suggested a scenario where a contracting agency could bypass the low-cost contractor ''if the second-lowest-cost contractor is within a close percentage of the low-cost contractor'' and the agency believes doing so would be in the agency's and public's interest. In addition, Gordian recommended allowing work orders issued on multiple award ID/IQ contracts using the JOC method be issued on a rotating basis ''so that the dollar value of assigned work is approximately equal.'' The Oregon DOT asked if FHWA would accept a result where ''the same few master contract holders being awarded all of the work orders, with some firms receiving few to no work orders over the life of the contract.'' The PennDOT and Oregon DOT recommended competitive methods be used to issue work orders.

In response to these comments, FHWA believes non-competitive methods of issuing work orders on multiple award ID/IQ contracts (including JOC contracts), such as on a rotating basis, or using other factors not related to competition or contractor disqualification, are contrary to the statutory competitive bidding requirement set forth in 23 U.S.C. 112. FHWA acknowledges that low bidders may be successful in being offered and awarded most, if not all, work orders in a multiple award ID/IQ contract based upon analyses of bid prices and actual work order quantities. Consistent with statutory requirements, FHWA is maintaining the regulatory prohibition against rotating or other non-competitive issuance of work orders.

The Delaware DOT commented that typical cause and convenience termination clauses are sufficient to remove contractors from the pool of those to be considered when issuing work orders when those contractors are not meeting the terms of the contract. The Delaware DOT recommended this issue be deferred to State or local procedures. Gordian also supported providing flexibility to contracting agencies to use their own procedures and be able to suspend assigning work to a particular contractor for cause. The VTrans cited their process of providing contractors with post-construction evaluations and written warning of any significant issue that may lead to ''off-ramping'' a contractor, providing that contractor an opportunity to address deficiencies. FHWA acknowledges these comments and does not believe the regulatory text requires further revision.

635.604(a)(6)

The Oregon DOT made several comments requesting clarification on FHWA's contractual terms, including as they are used in § 635.604(a)(6)(ii) related to wage determinations in ID/IQ contracts. The Oregon DOT commented that while the IFR provides requirements for updating prevailing wage rates when optional contract extensions are executed, FHWA did not address requirements for prevailing wages applicable to the original term of an ID/IQ contract or ''master contract.'' FHWA has considered this comment and believes the issue is sufficiently addressed in the existing regulation at 23 CFR 635.117(f). Under that regulation, the appropriate wage rates are to be identified in the bidding documents, which must specify ''that such rates are a part of the contract covering the project.'' FHWA believes this applies to ID/IQ contracts just as it would be to other competitive procurements, subject to the requirements of 29 CFR 1.6, where a correct wage determination remains in effect for the term of a contract. In this context, the contract is the ID/IQ contract, not the individual work orders falling under the ID/IQ contract. FHWA does not believe the regulatory text requires further revision.

The Oregon DOT asked if wage rates ''in effect on the date of the execution of a two-year contract extension of the master contract would apply to all work orders issued at any time during the two-year extension.'' In the IFR, FHWA intended § 635.604(a)(6)(ii) to address this issue and agrees the prevailing wage determination cited in Oregon DOT's example would be in effect for all work orders issued during the term of the extension, unless and until a new optional contract extension is executed. As discussed above and further discussed in the Definitions section at 635.602, FHWA is further revising §§ 635.604(a)(6)(i) and 635.604(a)(6)(ii) to consistently refer to optional contract extensions.

Section 635.605—Approvals and Authorizations

In the IFR, FHWA requested comments about procedures that could be implemented to efficiently review and approve small preventative maintenance projects with limited scope in numerous locations. Several commenters shared best practices and suggestions. FHWA appreciates these responses, which are best suited for incorporation into future ID/IQ contracting guidance, summaries of peer exchanges, or technical assistance provided by FHWA. FHWA is not making changes to the regulation based on these comments.

Section 635.606—ID/IQ Procedures

The Delaware DOT commented about the number of FHWA approvals included in the IFR. In its opinion the number seems more than necessary. The Delaware DOT proposed FHWA Division Administrators approve a set of ID/IQ procedures, after which project-specific approvals would not be required. In response, FHWA believes the approvals set forth in the IFR are consistent with similar requirements in other contracting methods, and most are subject to the statutory assumption provisions under 23 U.S.C. 106(c). Notable exceptions to these assumption provisions include the approval of proposed ID/IQ procurement procedures under § 635.605(a) and the execution of formal project agreements under § 630.106. FHWA has considered the comment and believes FHWA division offices and State DOTs may incorporate project-specific approval actions related to ID/IQ contracting into their agreements under 23 U.S.C. 106(c)(3), similar to the approach with other contracting methods, and that no further revision to the rule is required.

In the IFR, FHWA asked the public to consider procedures that should be in place when using ID/IQ procedures within a design-build contract to ensure compliance with this subpart as well as 23 CFR part 636 and related requirements. FHWA received few responses to this question, with commenters indicating they did not have experience with combining the design-build method with ID/IQ contracting. Gordian recommended FHWA not mandate specific procedures. FHWA appreciates the responses and

finds no further revision to the rule is required.

Regulatory Analyses and Notices

Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FHWA has considered the impacts of this rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) has determined that this rulemaking is not a significant regulatory action under section 3(f) of E.O. 12866. Accordingly, OMB has not reviewed it under that E.O.

As described above, this rule adopts the IFR published by FHWA on November 16, 2020, with a few minor changes and technical amendments. Most provisions from the IFR remain unchanged. The IFR amended FHWA's regulations to allow States the ability to use the ID/IQ method of contracting, including JOC, on Federal-aid highway projects, under certain circumstances, on a permanent basis. This action also restores a minor provision in 23 CFR part 635 inadvertently removed during an earlier, unrelated rulemaking. As with the IFR, FHWA believes that the rule will provide cost savings for, and expedite project delivery of, certain highway projects.

FHWA did not receive many comments in response to questions about cost and time savings based on the use of the ID/IQ contracting method. Commenters generally believed that cost savings would be realized, and that procurement time would be reduced for certain projects but, provided little additional data that was not considered in FHWA's original analysis under the IFR. FHWA agrees with the responsive comments that ID/IQ contracting is likely to reduce project costs and expedite project delivery but did not receive sufficient new data to warrant revising its earlier analysis under the interim final rule where it anticipated a cost savings, measured in 2019 dollars, of $3.4 million per year at a 7 percent discount rate.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

Regulatory Flexibility Act (Small Entities)

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this action on small entities and has determined that the action is not anticipated to have a significant economic impact on a substantial number of small entities. The amendment addresses obligation of Federal funds to States for Federal-aid highway projects. As such, it affects only States and States are not included in the definition of small entity set forth in 5 U.S.C. 601. Therefore, FHWA certifies that the action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) as it will not result in the expenditure by State, local, Tribal governments, in the aggregate, or by the private sector, of $155 million or more in any 1 year (2 U.S.C. 1532 *et seq.*). In addition, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 dated August 4, 1999, and FHWA has determined that this action would not have a substantial direct effect or sufficient federalism implications on the States. FHWA has also determined that this action would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act (Collection of Information)

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FHWA has determined that the rule does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20).

Executive Order 13175 (Tribal Consultation)

FHWA has analyzed this action under E.O. 13175, dated November 6, 2000, and believes that the action would not impose substantial direct compliance costs on Indian Tribal governments; and would not preempt Tribal laws. The rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian Tribal governments. To the extent that Tribes utilize these regulations, they would be expected to derive the same benefits identified above. Therefore, a Tribal summary impact statement is not required.

Executive Order 12898 (Environmental Justice)

E.O. 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. FHWA has determined that this final rule does not raise any environmental justice issues.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number

contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 630

Government contracts, Grant programs—transportation, Highway safety, Highways and roads, Reporting and recordkeeping requirements, Traffic regulations.

23 CFR Part 635

Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements.

Stephanie Pollack,

Deputy Administrator, Federal Highway Administration.

For the reasons set out above, the interim final rule amending title 23 Code of Federal Regulations, parts 630 and 635, which was published at 85 FR 72919 on November 16, 2020, is adopted as final with the following changes:

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart C—Physical Construction Authorization

■ 1. The authority for part 635 continues to read as follows:

Authority: Sections 1525 and 1303 of Pub. L. 112–141, Sec. 1503 of Pub. L. 109–59, 119 Stat. 1144; 23 U.S.C. 101 (note), 109, 112, 113, 114, 116, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 *et seq.;* Sec. 1041(a), Pub. L. 102–240, 105 Stat. 1914; 23 CFR 1.32; 49 CFR 1.85(a)(1).

■ 2. Amend § 635.309 by adding paragraphs (p)(1)(vi)(A) and (B) to read as follows:

§ 635.309 Authorization.

* * * * *

(p) * * *

(1) * * *

(vi) * * *

(A) A statement concerning scope and current status of the required services; and

(B) A statement which requires compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and 23 CFR part 710.

* * * * *

Subpart F—Indefinite Delivery/ Indefinite Quantity (ID/IQ) Contracting

■ 3. Amend § 635.604 by revising paragraphs (a)(3)(iii), (a)(6)(i) and (ii) to read as follows:

§ 635.604 ID/IQ requirements.

(a) * * *

(3) * * *

(iii) Specify the estimated quantity or value of services the contracting agency anticipates it may acquire under the contract, either on an annual basis or over the entire initial term of the ID/IQ contract.

* * * * *

(6) * * *

(i) Prior to granting an optional contract extension of the ID/IQ contract, the contracting agency must receive concurrence from the Division Administrator.

(ii) For ID/IQ contracts where prevailing wages apply under 23 U.S.C. 113, the current prevailing wage rate determination as determined by the U.S. Department of Labor in effect on the date of the execution of the optional contract extension of the ID/IQ contract shall apply to work covered under the optional contract extension.

* * * * *

[FR Doc. 2022–24002 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61 and 63

[EPA–R09–OAR–2021–0962; FRL–9400–04–R9]

Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona and California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve updates to the Code of Federal Regulations delegation tables to reflect the current delegation status of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants in Arizona and California.

DATES: This rule is effective on December 9, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0962. All documents in the docket are listed at *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, (415) 947–4152, *buss.jeffrey@epa.gov.*

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

Table of Contents

I. Background

A. What is the purpose of this document?

Through this document, the EPA is accomplishing the following objectives:

(1) Update the delegation tables in the Code of Federal Regulations, Title 40 (40 CFR), parts 60, 61 and 63 to provide an accurate listing of the delegated New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); and

(2) Clarify those authorities that the EPA retains and are not granted to state or local agencies as part of NSPS or NESHAP delegation.

Update of Tables in the CFR

This action will update the delegation tables in 40 CFR parts 60, 61 and 63, to allow easier access by the public to the status of delegations in various state or local jurisdictions. The updated delegation tables will include the delegations approved in response to recent requests, as well as those previously granted. The tables are shown at the end of this document.

Recent requests for delegation that have been incorporated into the updated 40 CFR parts 60, 61 and 63 tables are identified below. Each individual submittal identifies the specific NSPS and NESHAP for which delegation was requested. The requests have already been approved by letter and simply need to be included in the CFR tables.

Agency	Date of request	Date of approval by letter
Maricopa County Air Quality Department	December 9, 2020 and November 9, 2021.	April 8, 2021 and December 22, 2021.
Pima County Department of Environmental Quality	January 30, 2020	April 21, 2020.
Antelope Valley Air Quality Management District	November 3, 2020	January 14, 2022.
Monterey Bay Air Resources District	April 23, 2021	January 14, 2022.
San Diego Air Pollution Control District	June 23, 2020	April 8, 2021.

B. Who is authorized to delegate these authorities?

Sections 111(c)(1) and 112(l) of the Clean Air Act, as amended in 1990, authorizes the Administrator to delegate his or her authority for implementing and enforcing standards in 40 CFR parts 60, 61 and 63.

C. What does delegation accomplish?

Delegation grants a state or local agency the primary authority to implement and enforce federal standards. All required notifications and reports should be sent to the delegated state or local agency with a copy to EPA Region IX, as appropriate. Acceptance of delegation constitutes agreement by the state or local agency to follow 40 CFR parts 60, 61 and 63, and the EPA's test methods and continuous monitoring procedures.

D. What authorities are not delegated by the EPA?

In general, the EPA does not delegate to state or local agencies the authority to make decisions that are likely to be nationally significant or alter the stringency of the underlying standards. For a more detailed description of the authorities in 40 CFR parts 60 and 61 that are retained by the EPA, *see* 67 FR 20652 (April 26, 2002). For a more detailed description of the authorities in 40 CFR part 63 that are retained by the EPA, *see* 65 FR 55810 (September 14, 2000).

As additional assurance of national consistency, state and local agencies must send to EPA Region IX Enforcement Division's Air Section Manager a copy of any written decisions made pursuant to the following delegated authorities:

- applicability determinations that state a source is not subject to a rule or requirement;
- approvals or determination of construction, reconstruction, or modification;
- minor or intermediate site-specific changes to test methods or monitoring requirements; or
- site-specific changes or waivers of performance testing requirements.

For decisions that require the EPA's review and approval (for example, major changes to monitoring requirements), the EPA intends to make determinations in a timely manner.

In some cases, the standards themselves specify that specific provisions cannot be delegated. State and local agencies should review each individual standard for this information.

E. Does the EPA keep some authority?

The EPA retains independent authority to enforce the standards and regulations of 40 CFR parts 60, 61 and 63.

II. Public Comments and EPA Responses

On March 31, 2022, the EPA published in the **Federal Register** at 87 FR 18705 its NSPS and NESHAP updates in a direct final action because we believed the action was not controversial. In that direct final rule, we stated that if we received adverse comments, we would publish a timely withdrawal of the direct final rule and address the comments in a subsequent final rule based on a parallel proposed rule also published on March 31, 2022 at 87 FR 18760. We subsequently received two comments on that direct final rule and withdrew our direct final action on May 27, 2022, at 87 FR 32090.

Commenter #1

The commenter notes that California had the worst air quality levels in the United States in 2020, followed by Arizona. Additionally, Arizona and California are the top two states for having the largest Native American population. Arizona has over 332,000 Native Americans and is home to the country's largest tribe, The Navajo Nation, and California has over 321,000 Native Americans. Although air pollution affects all residents living in California and Arizona, health disparities are prominent among certain vulnerable populations such as Indigenous communities.

The commenter recommends that the delegation tables should be updated regularly, and comprehensive and detailed guidelines should be added as well to assure there is no gray area in following rules to prevent increased air pollution in California and Arizona. Finally, the commenter notes that Tribal governments can play a crucial role in decreasing air pollutants and work with entities at the federal and state levels.

EPA Response

We thank the commenter for the comment. While the commenter supports the proposed rule, we want to address some of the commenter's specific remarks.

Sections 111(c)(1) and 112(l) of the Clean Air Act, as amended in 1990, authorizes the Administrator to delegate his or her authority for implementing and enforcing standards in 40 CFR parts 60, 61 and 63. Tribes may apply to the EPA for such authority and assume regulatory and program management responsibilities in Indian country through the treatment in a similar manner as a tribe as a state process. In Arizona, for example, the Gila River Indian Community Department of Environmental Quality has delegated authority for the NESHAP within its jurisdiction.[1] In the absence of delegated authority, however, the EPA generally retains responsibility for enforcing the NSPS and NESHAP in Indian country, also known as direct implementation.

The EPA's planning documents underscore the importance of direct implementation in fulfilling the Agency's mission in Indian country. As stated in the Fiscal Year 2022–2026 EPA Strategic Plan, ''Ensuring EPA direct implementation of federal environmental programs in Indian country is in keeping with the federal trust responsibility. When the Agency directly implements federal environmental programs the agency also advances environmental justice for federally recognized Tribes. EPA will continue its long commitment to assisting Tribes in building the capacity to receive delegated programs. In those instances when Tribal governments are authorized to implement federal programs, EPA supports Tribal governments' inclusion of environmental justice principles, community engagement, and decision-making processes.'' [2]

Additionally, the EPA consults with federally recognized tribes under

[1] *See,* 40 CFR part 63.99 (a)(3)(i).

[2] FY 2022–2026 EPA Strategic Plan, page 31. Available at *https://www.epa.gov/system/files/documents/2022-03/fy-2022-2026-epa-strategic-plan.pdf.*

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments and the EPA Policy on Consultation and Coordination with Indian Tribes.[3] The EPA's direct implementation activities oftentimes meet the threshold consultation criteria of the Executive Order and/or Consultation Policy. As a result, in fulfilling its direct implementation responsibilities the EPA typically consults with tribes on actions it is taking that may affect tribes or tribal interests. Additional information on the Executive Order and Consultation Policy is available on the EPA's tribal consultation website.[4]

Commenter #2

On April 11, 2022, the EPA received an email message from the Yolo-Solano Air Quality Management District (AQMD) regarding its delegations for various subparts in 40 CFR parts 60, 61 and 63. With respect to Part 60, Yolo-Solano AQMD pointed out that the current delegations tables do not show delegations for any subparts to it despite the copies they furnished of older published versions showing various subparts were in fact delegated to Yolo-Solano AQMD. While the email message did not reference our action to update the NSPS and NESHAP delegation tables, we did receive it during the public comment period and intend to address it in this final action as a comment.

EPA Response

We agree with the comment that the existing delegation tables for 40 Part 60 are incorrect for Yolo-Solano AQMD. It appears that a publishing error occurred approximately in 2009, which resulted in the Tuolumne County Air Pollution Control District (APCD), Ventura County APCD and the Yolo-Solano AQMD delegations being deleted and/or altered from the table for 40 CFR part 60. With respect to parts 61 and 63, we found no error in the delegation tables. We are correcting the delegation status table for Part 60 for the three districts through this final rule.

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for correcting the tables for 40 CFR part 60 for Tuolumne County APCD, Ventura County APCD and Yolo-Solano AQMD without prior proposal and opportunity for comment because our action merely conforms the delegation table with actions taken by the EPA years ago and that remain in force. Thus, notice and public procedures are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. EPA Action

This document serves to notify the public that the EPA is updating the 40 CFR parts 60, 61 and 63 tables for Arizona and California to codify recent delegations of NSPS and NESHAP as authorized under Sections 111(c)(1) and 112(1)(l) of the Clean Air Act.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve delegation requests that comply with the provisions of the Act and applicable federal regulations. 42 U.S.C. Sections 7410(c) and 7412(l). Thus, in reviewing delegation submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, the air districts did not evaluate environmental justice considerations as part of their delegation requests. There is no information in the record, however, inconsistent with the stated goals of E.O. 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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

List of Subjects in 40 CFR Parts 60, 61 and 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 27, 2022.

Elizabeth J. Adams,

Director, Air and Radiation Division, Region IX.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 60.4 is amended by:

■ a. Revising table 3 to paragraph (d)(1);

■ b. Designating the table in paragraph (d)(2)(i) as table 4 and revising newly designated table 4;

■ c. Designating the table in paragraph (d)(2)(v) as table 7 and revising newly designated table 7;

■ d. Designating the table in paragraph (d)(2)(vii) as table 9 and revising newly designated table 9;

[3] Available at *https://www.epa.gov/sites/default/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf.*

[4] Available at *https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes.*

■ e. Designating the table in paragraph (d)(2)(ix) as table 11 and revising newly designated table 11.

The revisions read as follows:

§ 60.4 Address.

(d) * * *

(1) * * *

TABLE 3 TO PARAGRAPH (d)(1)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
E	Incinerators	X	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	X	X	X	X
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994	X	X	X	.....
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	X	X	X	.....
F	Portland Cement Plants	X	.....	X	X
G	Nitric Acid Plants	X	X	X	X
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.	.....	X	X	.....
H	Sulfuric Acid Plant	X	X	X	X
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	.....	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.	.....	.....	X	.....
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	.....	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	X
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	.....	X	X
Q	Primary Zinc Smelters	X	.....	X	X
R	Primary Lead Smelters	X	.....	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	X
Y	Coal Preparation and Processing Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	X
BB	Kraft Pulp Mills	X	X	X	X
BBa	Kraft Pulp Mill Sources for which Construction, Reconstruction or Modification Commenced after May 23, 2013.	.....	X	X	.....
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	X
FF	(Reserved)	.....	.....	.....	.....
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	X
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	X
LL	Metallic Mineral Processing Plants	X	X	X	X
MM	Automobile and Light Duty Trucks Surface Coating Operations	X	X	X	X
NN	Phosphate Rock Plants	X	X	X	X
PP	Ammonium Sulfate Manufacture	X	X	X	X
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X	X

TABLE 3 TO PARAGRAPH (d)(1)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA—Continued

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	X	X
SS	Industrial Surface Coating: Large Appliances	X	X	X	X
TT	Metal Coil Surface Coating	X	X	X	X
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	X
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	X
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.	X	X	X	.....
WW	Beverage Can Surface Coating Industry	X	X	X	X
XX	Bulk Gasoline Terminals	X	X	X	X
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	X
CCC	(Reserved)	.....	.....	.....	.....
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X	X	X
EEE	(Reserved)	.....	.....	.....	.....
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	X
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	.....	X	X
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.	X	.....	X	.....
HHH	Synthetic Fiber Production Facilities	X	X	X	X
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	X	X	X	X
JJJ	Petroleum Dry Cleaners	X	X	X	X
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	X	X	X	X
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	X
MMM	(Reserved)	.....	.....	.....	.....
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X	X	X
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	X
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	X	.....	X	X
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	X	X	X	.....
SSS	Magnetic Tape Coating Facilities	X	X	X	X
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	X
UUU	Calciners and Dryers in Mineral Industries	X	X	X	.....
VVV	Polymeric Coating of Supporting Substrates Facilities	X	X	X	X
WWW	Municipal Solid Waste Landfills	X	X	X	.....
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014.	.....	X	X	.....
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X	X	X	.....
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.	X	X	X	.....
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	X	X	X	.....
GGGG	(Reserved)	.....	.....	.....	.....
HHHH	(Reserved)	.....	.....	.....	.....
IIII	Stationary Compression Ignition Internal Combustion Engines	X	X	X	.....
JJJJ	Stationary Spark Ignition Internal Combustion Engines	.....	X	X	.....
KKKK	Stationary Combustion Turbines	X	X	X	.....
LLLL	New Sewage Sludge Incineration Units	.....	.....	X	.....
MMMM	Emissions Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units.	X	.....	.....	.....
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution	.....	X	X	.....
OOOOa	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015.	.....	X	X	.....
QQQQ	Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.	.....	X	X	.....
TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units.	.....	X	X	.....

(2) * * *
(i) * * *

TABLE 4 TO PARAGRAPH (d)(2)(i)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
A	General Provisions		X		
Ba	Adoption and Submittal of State Plans for Designated Facilities		X		
Cf	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills		X		
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971		X	X	
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978		X	X	
Db	Industrial-Commercial-Institutional Steam Generating Units		X	X	
Dc	Small Industrial-Commercial-Institutional Steam Generating Units		X	X	
E	Incinerators		X	X	
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.		X	X	
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994		X		
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.		X		
F	Portland Cement Plants		X	X	
G	Nitric Acid Plants		X	X	
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.		X		
H	Sulfuric Acid Plant		X	X	
I	Hot Mix Asphalt Facilities		X	X	
J	Petroleum Refineries		X	X	
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.		X		
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.		X	X	
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.		X	X	
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.		X	X	
L	Secondary Lead Smelters		X	X	
M	Secondary Brass and Bronze Production Plants		X	X	
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.		X	X	
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.		X	X	
O	Sewage Treatment Plants		X	X	
P	Primary Copper Smelters		X	X	
Q	Primary Zinc Smelters		X	X	
R	Primary Lead Smelters		X	X	
S	Primary Aluminum Reduction Plants		X	X	
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants		X		
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants		X	X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants		X	X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants		X	X	
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.		X	X	
Y	Coal Preparation and Processing Plants		X	X	
Z	Ferroalloy Production Facilities		X	X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.		X	X	
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.		X	X	
BB	Kraft Pulp Mills		X	X	
BBa	Kraft Pulp Mill Sources for which Construction, Reconstruction or Modification Commenced after May 23, 2013.		X		
CC	Glass Manufacturing Plants		X	X	
DD	Grain Elevators		X	X	
EE	Surface Coating of Metal Furniture		X	X	
FF	(Reserved)				
GG	Stationary Gas Turbines		X	X	
HH	Lime Manufacturing Plants		X	X	
KK	Lead-Acid Battery Manufacturing Plants		X	X	
LL	Metallic Mineral Processing Plants		X	X	
MM	Automobile and Light Duty Trucks Surface Coating Operations		X	X	

TABLE 4 TO PARAGRAPH (d)(2)(i)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD—Continued

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
NN	Phosphate Rock Plants		X	X	
PP	Ammonium Sulfate Manufacture		X	X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing		X	X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations		X	X	
SS	Industrial Surface Coating: Large Appliances		X	X	
TT	Metal Coil Surface Coating		X	X	
UU	Asphalt Processing and Asphalt Roofing Manufacture		X	X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.		X	X	
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.		X		
WW	Beverage Can Surface Coating Industry		X	X	
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters		X	X	
BBB	Rubber Tire Manufacturing Industry		X	X	
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.		X	X	
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing		X	X	
GGG	Equipment Leaks of VOC in Petroleum Refineries		X	X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.		X		
HHH	Synthetic Fiber Production Facilities		X	X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.		X		
JJJ	Petroleum Dry Cleaners		X	X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants		X	X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions		X		
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.		X	X	
OOO	Nonmetallic Mineral Processing Plants		X	X	
PPP	Wool Fiberglass Insulation Manufacturing Plants		X	X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems		X		
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.		X		
SSS	Magnetic Tape Coating Facilities		X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.		X	X	
UUU	Calciners and Dryers in Mineral Industries		X	X	
VVV	Polymeric Coating of Supporting Substrates Facilities		X	X	
WWW	Municipal Solid Waste Landfills		X		
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014.		X		
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.		X		
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.		X		
DDDD	Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units.		X		
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.		X		
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines		X		
JJJJ	Stationary Spark Ignition Internal Combustion Engines		X		
KKKK	Stationary Combustion Turbines		X		
LLLL	New Sewage Sludge Incineration Units		X		
MMMM	Emissions Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units.		X		
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution		X		

TABLE 4 TO PARAGRAPH (d)(2)(i)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD—Continued

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
OOOOa	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015.	.....	X	.....	.....
TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units.	.....	X	.....	.....
UUUUa	Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units.	.....	X	.....	.....

* * * * * (v) * * *

TABLE 7 TO PARAGRAPH (d)(2)(v)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	.....	X	X	.....
E	Incinerators	X	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	.....	X	.....	.....
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994	.....	X	.....	.....
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	.....	X	.....	.....
F	Portland Cement Plants	X	X	X	X
G	Nitric Acid Plants	X	X	X	X
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.	.....	.....	.....	.....
H	Sulfuric Acid Plant	X	X	X	X
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	X	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.	.....	X	.....	.....
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	X
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	X
Q	Primary Zinc Smelters	X	X	X	X
R	Primary Lead Smelters	X	X	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	X
Y	Coal Preparation and Processing Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X

TABLE 7 TO PARAGRAPH (d)(2)(v)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD—Continued

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	X
BB	Kraft Pulp Mills	X	X	X	X
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	X
FF	(Reserved)				
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	X
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	X
LL	Metallic Mineral Processing Plants	X	X	X	X
MM	Automobile and Light Duty Trucks Surface Coating Operations	X	X	X	X
NN	Phosphate Rock Plants	X	X	X	X
PP	Ammonium Sulfate Manufacture	X	X	X	X
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X	X
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	X	X
SS	Industrial Surface Coating: Large Appliances	X	X	X	X
TT	Metal Coil Surface Coating	X	X	X	X
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	X
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	X
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.		X		
WW	Beverage Can Surface Coating Industry	X	X	X	X
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	X
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X	X	
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	X
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	X	X
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.		X		
HHH	Synthetic Fiber Production Facilities	X	X	X	X
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.		X		
JJJ	Petroleum Dry Cleaners	X	X	X	X
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	X	X	X	X
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	X
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X	X	
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	X
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	X	X	X	X
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.		X		
SSS	Magnetic Tape Coating Facilities	X	X	X	X
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	X
UUU	Calciners and Dryers in Mineral Industries		X	X	
VVV	Polymeric Coating of Supporting Substrates Facilities		X	X	X
WWW	Municipal Solid Waste Landfills		X	X	
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.		X		
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.		X		

TABLE 7 TO PARAGRAPH (d)(2)(v)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD—Continued

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	.....	X	.....	.....
GGGG	(Reserved)	.....	.....	.....	.....
HHHH	(Reserved)	.....	.....	.....	.....
IIII	Stationary Compression Ignition Internal Combustion Engines	.....	X	X	.....
JJJJ	Stationary Spark Ignition Internal Combustion Engines	.....	X	X	.....
KKKK	Stationary Combustion Turbines	.....	X	X	.....
LLLL	New Sewage Sludge Incineration Units	.....	.....	.....	.....
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution	.....	.....	.....	.....

* * * * * (vii) * * *

TABLE 9 TO PARAGRAPH (d)(2)(vii)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
E	Incinerators	X	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	X	X	X	.....
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994	X	X	.....	X
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	X	.....	.....	X
F	Portland Cement Plants	X	X	X	.....
G	Nitric Acid Plants	X	X	X	.....
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.	.....	.....	.....	.....
H	Sulfuric Acid Plant	X	X	X	.....
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	X	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.	.....	.....	.....	X
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	.....
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	.....
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	.....
Q	Primary Zinc Smelters	X	X	X	.....
R	Primary Lead Smelters	X	X	X	.....
S	Primary Aluminum Reduction Plants	X	X	X	.....

TABLE 9 TO PARAGRAPH (d)(2)(vii)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	X	
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	
Y	Coal Preparation and Processing Plants	X	X	X	
Z	Ferroalloy Production Facilities	X	X	X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	
BB	Kraft Pulp Mills	X	X	X	
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	
FF	(Reserved)				
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	
LL	Metallic Mineral Processing Plants	X	X	X	
MM	Automobile and Light Duty Trucks Surface Coating Operations	X	X	X	
NN	Phosphate Rock Plants	X	X	X	
PP	Ammonium Sulfate Manufacture	X	X	X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	X	
SS	Industrial Surface Coating: Large Appliances	X	X	X	
TT	Metal Coil Surface Coating	X	X	X	
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.				X
WW	Beverage Can Surface Coating Industry	X	X	X	
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X		
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.				X
HHH	Synthetic Fiber Production Facilities	X	X	X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	X	X		
JJJ	Petroleum Dry Cleaners	X	X	X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	X	X	X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X		
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	X	X	X	
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	X	X	X	
SSS	Magnetic Tape Coating Facilities	X	X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	
UUU	Calciners and Dryers in Mineral Industries	X	X	X	X

TABLE 9 TO PARAGRAPH (d)(2)(vii)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
VVV	Polymeric Coating of Supporting Substrates Facilities	X	X	X	X
WWW	Municipal Solid Waste Landfills	X	X	X	X
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X			X
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.	X			X
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	X			X
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines	X			X
JJJJ	Stationary Spark Ignition Internal Combustion Engines	X			X
KKKK	Stationary Combustion Turbines	X			X
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution				
QQQQ	Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.	X			
TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units.	X			

* * * * * (ix) * * *

TABLE 11 TO PARAGRAPH (d)(2)(ix)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR TUOLUMNE COUNTY APCD, VENTURA COUNTY APCD, AND YOLO-SOLANO AQMD

	Subpart	Air pollution control agency		
		Tuolumne County APCD	Ventura County APCD	Yolo-Solano AQMD
A	General Provisions		X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971		X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978		X	
Db	Industrial-Commercial-Institutional Steam Generating Units		X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units		X	
E	Incinerators		X	
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.		X	
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994			
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.			
F	Portland Cement Plants		X	
G	Nitric Acid Plants		X	
H	Sulfuric Acid Plant		X	
I	Hot Mix Asphalt Facilities		X	X
J	Petroleum Refineries		X	X
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.		X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.		X	
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.		X	
L	Secondary Lead Smelters		X	
M	Secondary Brass and Bronze Production Plants		X	
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.		X	
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.		X	
O	Sewage Treatment Plants		X	
P	Primary Copper Smelters		X	
Q	Primary Zinc Smelters		X	
R	Primary Lead Smelters		X	

TABLE 11 TO PARAGRAPH (d)(2)(ix)—DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR TUOLUMNE COUNTY APCD, VENTURA COUNTY APCD, AND YOLO-SOLANO AQMD—Continued

	Subpart	Air pollution control agency		
		Tuolumne County APCD	Ventura County APCD	Yolo-Solano AQMD
S	Primary Aluminum Reduction Plants		X	
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants		X	
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants		X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants		X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants		X	
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities		X	
Y	Coal Preparation and Processing Plants		X	
Z	Ferroalloy Production Facilities		X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.		X	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.		X	
BB	Kraft Pulp Mills		X	
CC	Glass Manufacturing Plants		X	
DD	Grain Elevators		X	
EE	Surface Coating of Metal Furniture		X	
FF	(Reserved)			
GG	Stationary Gas Turbines		X	
HH	Lime Manufacturing Plants		X	
KK	Lead-Acid Battery Manufacturing Plants		X	
LL	Metallic Mineral Processing Plants		X	
MM	Automobile and Light Duty Trucks Surface Coating Operations		X	
NN	Phosphate Rock Plants		X	
PP	Ammonium Sulfate Manufacture		X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing		X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations		X	
SS	Industrial Surface Coating: Large Appliances		X	
TT	Metal Coil Surface Coating		X	
UU	Asphalt Processing and Asphalt Roofing Manufacture		X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing		X	
WW	Beverage Can Surface Coating Industry		X	
XX	Bulk Gasoline Terminals			
AAA	New Residential Wood Heaters		X	
BBB	Rubber Tire Manufacturing Industry		X	
CCC	(Reserved)			
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry		X	
EEE	(Reserved)			
FFF	Flexible Vinyl and Urethane Coating and Printing		X	
GGG	Equipment Leaks of VOC in Petroleum Refineries		X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.			
HHH	Synthetic Fiber Production Facilities		X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.		X	
JJJ	Petroleum Dry Cleaners		X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants		X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions		X	
MMM	(Reserved)			
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.		X	
OOO	Nonmetallic Mineral Processing Plants		X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants		X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems		X	
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.		X	
SSS	Magnetic Tape Coating Facilities		X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines		X	
UUU	Calciners and Dryers in Mineral Industries		X	
VVV	Polymeric Coating of Supporting Substrates Facilities		X	
WWW	Municipal Solid Waste Landfills	X	X	

* * * * *

[FR Doc. 2022–23977 Filed 11–8–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 216
Wednesday, November 9, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. NRC–2020–0036]

RIN 3150–AK71

Reporting Requirements for Nonemergency Events at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory basis; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on a regulatory basis to support a rulemaking that would amend its regulations for nonemergency event notifications. The NRC is evaluating the current requirements and guidance for immediate notification of nonemergency events for operating nuclear power reactors and assessing whether the requirements present an unnecessary reporting burden. The regulatory basis contains an analysis of whether reporting requirements can be reduced or eliminated when they do not have a commensurate safety benefit.

DATES: Submit comments by January 9, 2023. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0036. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: George Tartal, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0016; email: *George.Tartal@nrc.gov;* or Brian Benney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2767; email: *Brian.Benney@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0036 (formerly Docket ID NRC–2018–0201 for the associated petition for rulemaking) when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0036 (or Docket ID NRC–2018–0201 for the associated petition for rulemaking).
- *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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0036 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

To facilitate early stakeholder engagement in the rulemaking process, the NRC is requesting comment on a regulatory basis to support a rulemaking that would amend Section 50.72, ''Immediate notification requirements for operating nuclear power reactors,'' of Title 10 of the *Code of Federal Regulations* (10 CFR).

The regulatory basis is developed as a precursor to a proposed rule and describes the NRC's preferred approach for resolving an issue raised in a petition for rulemaking (PRM), PRM–50–116, submitted by the Nuclear Energy Institute (NEI) on August 2, 2018. The petition requested the NRC to amend its regulations to remove all nonemergency notification requirements for operating nuclear power reactors. On August 12, 2021, the NRC published a notice in the **Federal Register** (86 FR

44290) announcing its decision to consider in its rulemaking process changes to these requirements.

The regulatory basis recommends that the NRC pursue rulemaking to remove six of the nonemergency event notification requirements, clarify regulatory guidance for two of the requirements, and make no changes to the rest of the nonemergency event notification requirements. The NRC also recommends rulemaking to provide a voluntary, alternative method for submitting nonemergency event reports to the NRC.

The NRC will consider feedback received on the regulatory basis in the development of the planned proposed rule and will address written comments in that proposed rule.

III. Cumulative Effects of Regulations

The Cumulative Effects of Regulation (CER) describes the challenges that licensees or other impacted entities (such as State agency partners) may face while implementing new regulatory positions, programs, and requirements (*e.g.,* rules, generic letters, backfits, inspections). The CER is an organizational challenge that results from a licensee or impacted entity implementing a number of complex positions, programs, or requirements within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The NRC is following its CER process by engaging with external stakeholders throughout this regulatory basis and related regulatory activities. Opportunity for public comment is provided to the public at this regulatory basis stage. The NRC has implemented CER enhancements to the rulemaking process to facilitate public involvement throughout the rulemaking process. The NRC is requesting CER feedback on the following questions:

1. In light of any current or projected CER challenges, what should be a reasonable effective date, compliance date, or submittal date(s) from the time the final rule is published to the actual implementation of any new proposed requirements, including changes to programs, procedures, or the facility?

2. If current or projected CER challenges exist, what should be done to address this situation (*e.g.,* if more time is required to implement the new requirements, what period of time would be sufficient, and why such a time frame is necessary)?

3. Do other regulatory actions (*e.g.,* orders, generic communications, license amendment requests, and inspection findings of a generic nature) by the NRC or other agencies influence the implementation of the potential proposed requirements?

4. Are there unintended consequences? Does the potential proposed action create conditions that would be contrary to the potential proposed action's purpose and objectives? If so, what are the consequences and how should they be addressed?

Please provide information on the costs and benefits of the potential proposed action. This information will be used to support additional regulatory analysis by the NRC.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./ web link/**Federal Register** citation
Regulatory Basis for Reporting Requirements for Nonemergency Events at Nuclear Power Plants	ML22108A004
PRM–50–116, Considering in the Rulemaking Process: Elimination of Immediate Notification Requirements for Nonemergency Events, August 12, 2021.	86 FR 44290
PRM–50–116, Notice of Docketing and Request for Comment: Elimination of Immediate Notification Requirements for Non-Emergency Events, November 20, 2018.	83 FR 58509
Petition for Rulemaking PRM–50–116, Submitted by the Nuclear Energy Institute, August 2, 2018	ML18247A204
SECY–20–0109, ''Petition for Rulemaking and Rulemaking Plan on Immediate Notification Requirements for Nonemergency Events (PRM–50–116; NRC–2018–0201),'' November 30, 2020.	ML20073G008
SRM–SECY–20–0109, ''Petition for Rulemaking and Rulemaking Plan on Immediate Notification Requirements for Non-emergency Events,'' July 28, 2021.	ML21209A947

The NRC may post documents related to this rulemaking activity to the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0036. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0036); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

V. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

Dated: November 4, 2022.

For the Nuclear Regulatory Commission.

Christopher M. Regan,

Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–24463 Filed 11–8–22; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1413; Project Identifier MCAI–2021–00077–E]

RIN 2120–AA64

Airworthiness Directives; Continental Aerospace Technologies GmbH Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Continental Aerospace

Technologies GmbH TAE 125–02–99 and TAE 125–02–114 model reciprocating engines. This proposed AD was prompted by manufacturer reports of fractured main bearing studs. This proposed AD would require the removal and replacement of certain main bearing studs. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by December 27, 2022.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1413; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Continental Aerospace Technologies GmbH, Platanenstrasse 14, 09356 Sankt Egidien, Germany; phone: +49 37204 696 0; email: *support@continentaldiesel.com;* website: *continentaldiesel.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1413; Project Identifier MCAI–2021–00077–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0022, dated January 18, 2021 (referred to after this as ''the MCAI''), to address an unsafe condition on certain Continental Aerospace Technologies GmbH (Type Certificate previously held by Technify Motors GmbH and Thielert Aircraft Engines GmbH) TAE 125–02–99 and TAE 125–02–114 model reciprocating engines. The MCAI states that the manufacturer has received reports of fractured main bearing studs. A fractured main bearing stud provides improper support to the crankshaft and increases crankshaft clearance, resulting in crankshaft sensor failures and potential crankshaft fracture. The manufacturer is investigating the root cause of main bearing stud failures. To address this unsafe condition, Continental Aerospace Technologies GmbH published service information to identify the serial numbers (S/Ns) of the affected engines and specify procedures for replacement of certain main bearing studs. The MCAI specifies actions to replace main bearing studs and specifies certain main bearing studs that are not to be installed onto any engine. This condition, if not addressed, could result in engine in-flight shutdown and forced landing, damage to the airplane, and injury to the occupants. The FAA is issuing this AD to address the unsafe condition.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1413.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Continental Aerospace Technologies GmbH Service Bulletin (SB) CG 125–1027 P1, Revision 1, dated May 28, 2021. This service information identifies the S/Ns of the affected engines and specifies procedures for replacing the main bearing studs. The FAA also reviewed Continental Aerospace Technologies GmbH Repair Instruction RI–05–0017–04, Revision 4, dated April 1, 2021. This service information provides instructions for replacing the main bearing studs.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require the removal of certain main bearing studs

from service and replacement with parts eligible for installation. This proposed AD would also prohibit the installation of certain main bearing studs.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 92 engines installed on aircraft of U.S. registry.

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

ESTIMATED COSTS

Action	Labor Cost	Parts Cost	Cost per product	Cost on U.S. operators
Replace main bearing studs	16 work-hours × $85 per hour = $1,360	$5,500	$6,860	$631,120

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Continental Aerospace Technologies GmbH (Type Certificate previously held by Technify Motors GmbH and Thielert Aircraft Engines GmbH): Docket No. FAA–2022–1413; Project Identifier MCAI–2021–00077–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Continental Aerospace Technologies GmbH (Type Certificate previously held by Technify Motors GmbH and Thielert Aircraft Engines GmbH) TAE 125–02–99 and TAE 125–02–114 model reciprocating engines with an engine serial number (S/N) identified in Models Affected, Continental Aerospace Technologies GmbH Service Bulletin (SB) CG 125–1027 P1, Revision 1, dated May 28, 2021.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by manufacturer reports of fractured main bearing studs. The FAA is issuing this AD to prevent failure of the main bearing stud. The unsafe condition, if not addressed, could result in engine in-flight shutdown and forced landing, damage to the airplane, and injury to the occupants.

(f) Compliance

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

(g) Required Actions

(1) For Group 1 and Group 2 engines, before exceeding the applicable compliance time in Table 1 to paragraph (g)(1) of this AD, remove all main bearing studs from service if one or more main bearing studs with part number (P/N) 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1 are installed on the engine and replace with parts eligible for installation in accordance with Instructions, paragraphs 4.2 through 4.2.17 of Continental Aerospace Technologies GmbH Repair Instruction RI–05–0017–04, Revision 4, dated April 1, 2021 (Continental Aerospace Technologies GmbH RI–05–0017–04, Revision 4).

TABLE 1 TO PARAGRAPH (g)(1)—MAIN BEARING STUD REPLACEMENT

Group	Flight hours (FHs) since new	Compliance time
1	100 FHs or less	Before exceeding 115 FHs since new, or during the next scheduled maintenance, whichever occurs first after the effective date of this AD.
1	More than 100 FHs	Before exceeding 15 FHs from the effective date of this AD, or during the next scheduled maintenance, whichever occurs first after the effective date of this AD.
2	100 FHs or less	Before exceeding 200 FHs since new, or during the next scheduled maintenance whichever occurs first after the effective date of this AD.

TABLE 1 TO PARAGRAPH (g)(1)—MAIN BEARING STUD REPLACEMENT—Continued

Group	Flight hours (FHs) since new	Compliance time
2	More than 100 FHs	Before exceeding 100 FHs from the effective date of this AD, or during the next scheduled maintenance, whichever occurs first after the effective date of this AD.

Note 1 to paragraph (g)(1): FHs since new indicated in Table 1 to paragraph (g)(1) of this AD are FHs accumulated by the engine since first installation on an airplane, on the effective date of this AD.

(2) For engines not installed on an airplane as of the effective date of this AD, before further flight, remove all main bearing studs if one or more main bearing studs with P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1 are installed on the engine and replace with parts eligible for installation in accordance with Instructions, paragraphs 4.2 through 4.2.17 of Continental Aerospace Technologies GmbH RI–05–0017–04, Revision 4.

(h) Installation Prohibition

After the effective date of this AD, do not install onto any engine a main bearing stud with P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1.

(i) Definitions

(1) For the purpose of this AD, Group 1 engines are affected engines installed on single-engine airplanes, with main bearing stud with P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1 installed on the engine, and affected engines installed on twin-engine airplanes, with main bearing stud with P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1 installed on both engines.

(2) For the purpose of this AD, Group 2 engines are affected engines installed on twin-engine airplanes, with main bearing stud with P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1 installed on only one engine.

(3) For the purpose of this AD, parts eligible for installation are any main bearing studs that do not have P/N 05–7211–K009801 and batch number B180703/1, B184216/1, B184216/2, or B191277/1.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0022, dated January 18, 2021, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1413.

(2) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Continental Aerospace Technologies GmbH Service Bulletin CG 125–1027 P1, Revision 1, dated May 28, 2021.

(ii) Continental Aerospace Technologies GmbH Repair Instruction RI–05–0017–04, Revision 4, dated April 1, 2021.

(3) For Continental Aerospace Technologies GmbH service information identified in this AD, contact Continental Aerospace Technologies GmbH, Platanenstrasse 14, 09356 Sankt Egidien, Germany; phone: +49 37204 696 0; email: *support@continentaldiesel.com;* website: *continentaldiesel.com.*

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

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

Issued on November 3, 2022.

Christina Underwood,

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

[FR Doc. 2022–24390 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1408; Project Identifier MCAI–2022–00857–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022–09–03, which applies to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2022–09–03 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2022–09–03, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2022–09–03 and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 27, 2022.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1408; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2022–1408.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1408; Project Identifier MCAI–2022–00857–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–09–03, Amendment 39–22023 (87 FR 29030, May 12, 2022) (AD 2022–09–03), which applies to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2022–09–03 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2022–09–03 to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

Actions Since AD 2022–09–03 Was Issued

Since the FAA issued AD 2022–09–03, the FAA has determined that additional new or more restrictive airworthiness limitations are necessary.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0124, dated June 28, 2022 (EASA AD 2022–0124) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. EASA AD 2022–0124 superseded EASA AD 2021–0206 (which corresponds to FAA AD 2022–09–03).

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after May 2, 2022 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0124 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2021–0206, dated September 15, 2021, which the Director of the Federal Register approved for incorporation by reference as of June 16, 2022 (87 FR 29030, May 12, 2022).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain the requirements of AD 2022–09–03. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2022–0124 described previously, as proposed for incorporation by reference. Any differences with EASA AD 2022–0124 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed

AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0124 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0124 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0124 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0124. Service information required by EASA AD 2022–0124 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1408 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2022–09–03 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2022–09–03, Amendment 39–22023 (87 FR 29030, May 12, 2022); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–1408; Project Identifier MCAI–2022–00857–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

This AD replaces AD 2022–09–03, Amendment 39–22023 (87 FR 29030, May 12, 2022) (AD 2022–09–03).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before May 2, 2022.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2022–09–03, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 30, 2021: Except as specified in paragraph (h) of this AD, comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Agency (EASA) AD 2021–0206, dated September 15, 2021 (EASA AD 2021–0206). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2021–0206, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2022–09–03, with no changes.

(1) Where EASA AD 2021–0206 refers to its effective date, this AD requires using June 16, 2022 (the effective date of AD 2022–09–03).

(2) The requirement specified in paragraph (1) of EASA AD 2021–0206 does not apply to this AD.

(3) Paragraph (2) of EASA AD 2021–0206 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after June 16, 2022 (the effective date of AD 2022–09–03).

(4) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2021–0206 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2021–0206, or within 90 days after June 16, 2022 (the effective date of AD 2022–09–03), whichever occurs later.

(5) The provisions specified in paragraph (3) and (4) of EASA AD 2021–0206 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2021–0206 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2022–09–03, with a new exception. Except as required by paragraph (j) of this AD, after the revision of the existing maintenance or inspection program has been accomplished as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0206.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0124, dated June 28, 2022 (EASA AD 2022–0124). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0124

(1) The requirement specified in paragraph (1) of EASA AD 2022–0124 does not apply to this AD.

(2) Paragraph (2) of EASA AD 2022–0124 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for complying with the limitations specified in paragraph (2) of EASA AD 2022–0124 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2022–0124, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (3) and (4) of EASA AD 2022–0124 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0124 does not apply to this AD.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0124.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

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

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2022–0124, dated June 28, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on June 16, 2022 (87 FR 29030, May 12, 2022).

(i) European Union Aviation Agency (EASA) AD 2021–0206, dated September 15, 2021.

(ii) [Reserved]

(5) For EASA ADs 2021–0206 and 2022–0124, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on November 1, 2022.

Christina Underwood,

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

[FR Doc. 2022–24266 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1414; Project Identifier MCAI–2021–01303–E]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain GE Aviation Czech s.r.o. (GEAC) M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. This proposed AD was prompted by the exclusion of life limits for certain compressor cases and compressor drums from the airworthiness limitations section (ALS) of the engine maintenance manual (EMM). This proposed AD was also prompted by certain compressor cases that, following rework, were improperly re-identified and the engine logbook entries were not completed. This proposed AD would require recalculation of the consumed life for the affected compressor cases and compressor drums and, depending on the results of the recalculation, removal and replacement of the affected compressor case or compressor drum with a part eligible for installation. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by December 27, 2022.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1414; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For GEAC material identified in this NPRM, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1414; Project Identifier MCAI–2021–01303–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0264, dated November 22, 2021 (referred to after this as ''the MCAI''), to correct an unsafe condition on GEAC M601E, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601E–21, M601F and M601FS model turboprop engines. The MCAI states that the life limits for certain compressor cases and compressor drums were not published in the applicable ALS of the EMM for certain GEAC M601 model turboprop engines. The MCAI also states that following rework of certain compressor cases from part number (P/N) M601–154.6 to P/N M601–154.51, those compressor cases were improperly re-identified and the engine logbook entries were not completed, which could cause the compressor case to remain in service beyond its applicable life limit. This condition can lead to failure of an affected part, possibly resulting in engine mount failure and high energy debris release.

As a result of this unsafe condition, the MCAI specifies replacement of the affected parts and engine logbook correction. The MCAI also specifies conditions and clarifications for parts installation using GEAC Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] and ASB–M601E–72–30–00–0110 [01], (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1414.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GEAC Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] and ASB–M601E–72–30–00–0110 [01], (single document; formatted as service bulletin identifier

[revision number]), dated October 15, 2021. This service information describes procedures for recalculation of the consumed life of certain compressor cases and compressor drums. The ASB also provides the part numbers of the affected compressor cases and compressor drums installed on GEAC M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require recalculation of the consumed life for the affected compressor cases and compressor drums and, depending on the results of the recalculation, removal and replacement of the affected compressor case or compressor drum with a part eligible for installation.

Differences Between This Proposed AD and the MCAI

EASA AD 2022–0034 includes an Engine Logbook Correction paragraph which specifies correction of the compressor case P/N, while this proposed AD does not include the Engine Logbook Correction paragraph.

EASA AD 2022–0034 applies to GEAC M601E, M601E–21, and M601FS model turboprop engines, and this AD does not because they do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 7 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Recalculate the consumed life of compressor case and compressor drum.	.25 work-hours × $85 per hour = $21.25	$0	$21.25	$148.75

The FAA estimates the following costs to do any necessary replacements that would be required based on the recalculated consumed life of the affected parts. The agency has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove and replace compressor case	10 work-hours × $85 per hour = $850	$5,000	$5,850
Remove and replace compressor drum	40 work-hours × $85 per hour = $3,400	7,000	10,400

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

GE Aviation Czech s.r.o (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.):

Docket No. FAA–2022–1414; Project Identifier MCAI–2021–01303–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GE Aviation Czech s.r.o. (GEAC) M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601E–21, M601F, and M601FS model turboprop engines, with an installed compressor case part number (P/N) M601–154.51, which includes compressor cases identified as, or recorded in the engine logbook as P/N M601–154.6; or with an installed compressor drum having P/N M601–130.7 or P/N M601–134.7.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by the manufacturer's determination that the life limits for certain compressor cases and compressor drums were not published in the applicable airworthiness limitations section of the engine maintenance manual. Additionally, it was determined that following rework, certain compressor cases were improperly re-identified and the engine logbook entries were not completed. The FAA is issuing this AD to prevent the failure of the compressor case and compressor drum. The unsafe condition, if not addressed, could result in engine mount failure and high energy debris release.

(f) Compliance

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

(g) Required Actions

(1) Within 90 days after the effective date of this AD, recalculate the consumed life of the affected compressor case and affected compressor drum in accordance with the formula and lifing coefficients in paragraph 2.B., Table 1 of the Accomplishment Instructions of GEAC Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] ASB–M601E–72–30–00–0110 [01] (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021.

(2) For GEAC M601E–11, M601E–11A, and M601F model turboprop engines, before the recalculated consumed life of an affected compressor case exceeds 11,000 equivalent flight cycles (FCs), replace the compressor case with a compressor case eligible for installation.

(3) For GEAC M601E–11S and M601E–11AS model turboprop engines, before the recalculated consumed life of an affected compressor case exceeds 11,000 equivalent FCs, or within 12 months after the effective date of this AD, whichever occurs first, replace the compressor case with a compressor case eligible for installation.

(4) For all affected engines with an installed compressor drum having P/N M601–130.7 or M601–134.7, before the recalculated consumed life of the compressor drum exceeds 6,750 equivalent FCs, or within 12 months after the effective date of this AD, whichever occurs first, replace the compressor drum with a compressor drum eligible for installation.

(h) Definition

(1) For the purpose of this AD, a ''compressor case eligible for installation'' is:

(i) For GEAC M601E–11, M601E–11A, and M601F model turboprop engines, an affected compressor case that is identified as P/N M601–154.51 with no reference to other P/N's and that does not have a recalculated consumed life that has exceeded its life limit, or a compressor case that is not P/N M601–154.51.

(ii) For GEAC M601E–11S and M601E–11AS model turboprop engines, a compressor case that is not P/N M601–154.51.

Note 1 to paragraph (h)(1): A compressor case having P/N M601–154.6 is not an approved configuration, and is not eligible for installation.

(2) For the purpose of this AD, a ''compressor drum eligible for installation'' is a compressor drum that is not P/N M601–130.7 or M601–134.7.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0264, dated November 22, 2021, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1414.

(2) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) GE Aviation Czech Alert Service Bulletin ASB–M601F–72–30–00–0061 [01] and ASB–M601E–72–30–00–0110 [01], (single document; formatted as service bulletin identifier [revision number]), dated October 15, 2021.

(ii) Reserved.

(3) For GEAC service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.

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

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

Issued on November 3, 2022.

Christina Underwood,

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

[FR Doc. 2022–24388 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1250; Project Identifier AD–2022–00763–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap splice at certain stringers is subject to widespread fatigue damage (WFD). This proposed AD would require an inspection for any repair at certain skin lap splices and depending on the configuration, repetitive inspections for buckling, wrinkling, bulging at affected skin lap splices and repair, repetitive inspections for cracking at affected locations common to fuselage skin on the left and right sides and repair, and alternative inspections and on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 27, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1250.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1250; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Willard Ashforth, Senior Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3520; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1250; Project Identifier AD–2022–00763–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Willard Ashforth, Senior Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3520; email: *bill.ashforth@faa.gov.* A. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

An FAA final rule (''Aging Airplane Program: Widespread Fatigue Damage;'' 75 FR 69746, November 15, 2010) became effective on January 14, 2011, and amended 14 CFR parts 25, 26, 121, and 129 (commonly known as the WFD rule). The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. Design approval holders (DAHs) of existing and future airplanes subject to the WFD rule are required to establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

The FAA has received reports indicating fuselage skin cracking found between stations (STA) 767 and STA 787, just below S–14R fuselage skin lap splice, where a lower skin panel buckle intersected the upper skin of the lap splice. Fuselage skin cracking was also found between just below S–14R between STA 747 and STA 767. Skin buckles, wrinkles, or bulges may be precursors to cracks at the potential affected fuselage longitudinal lap splice areas on all 737NG airplanes. Fatigue cracks initiated at multiple locations where linear anomalies were found in the clad layer of the lower skin. Areas of loose paint, discoloration, loose fasteners, lap joint separation, or disturbed sealant can be indicative of areas where skin buckles, wrinkles, or bulges have occurred. Such areas should

be carefully examined for skin deformation; however, skin buckles, wrinkles, or bulges may also exist without other signs of skin distress. This condition was the result of incorrect procedures used to install lap splice during airplane production. This condition, if not addressed, could result in any small crack, any buckle, any wrinkle or any bulge in the fuselage skin lap splice may go undetected. Continued operation of the airplane with any undetected small crack, buckle, wrinkle or bulge in the fuselage skin lap splice could cause a large crack in the fuselage skin, which may result in the inability of a principal structural element to sustain limit load, which could result in reduce structural integrity of the airplane and lead to a decompression event.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022. This service information specifies procedures for a general visual inspection for any repair, any buckle, any wrinkle, any bulge, and any cracking at skin lap splice at stringers S–4 (Boeing Converted Freighter only), S–14 and S–24 (737–600 only). This service information also describes procedures, depending on the configuration, for repetitive detailed inspections for buckling, wrinkling, bulging at unrepaired areas of affected lap splices and repair; repetitive detailed, high frequency eddy current (HFEC), and ultrasonic (UT) inspections for cracking at affected locations common to fuselage skin on the left and right sides and repair; and alternative inspections and on-condition actions.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at *regulations.gov* by searching for and locating Docket No. FAA–2022–1250.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 2,462 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	Up to 34 hours × $85 per hour = Up to $2,890 per inspection cycle.	$0	$2,890 per inspection cycle	Up to $7,115,180 per inspection cycle.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs or for the alternative inspections and on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2022–1250; Project Identifier AD–2022–00763–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap splice at stringers S–4, S–14, and S–24 are subject to widespread fatigue damage (WFD). The FAA is issuing this AD to address cracks, skin buckles, wrinkles, and bulges at fuselage longitudinal lap splice areas at S–4, S–14 and S–24. This condition, if not addressed, could result in a large crack in the fuselage skin, which may result in the inability of a principal structural element to sustain limit load, which could result in reduced structural integrity of the airplane and lead to a decompression event.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–53–1399 RB, dated May 20, 2022, which is referred to in Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022, use the phrase ''the original issue date of Boeing Special Attention Requirements Bulletin 737–53–1399 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Special Attention Requirements Bulletin 737–53–1399 RB, dated May 20, 2022, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair and doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on September 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–24244 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1333; Airspace Docket No. 22–ASO–24]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Athens/Ben Epps Airport, Athens, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E surface airspace, and Class E airspace designated as an extension to a Class D surface area and Class E airspace extending upward from 700 feet above the surface at Athens/Ben Epps Airport, Athens, GA as a result of the biennial airspace evaluation. This action would eliminate the excess airspace remaining after the decommissioning of the Bulldog Non-Directional Beacon (NDB) and subsequent cancellation of the NDB Runway 27 approach to Athens/Ben Epps Airport effective October 15, 2015, as well as update the geographic coordinates for the airport and the point-of-origin. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before December 27, 2022.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify Docket No. FAA–2022–1333; Airspace Docket No. 22–ASO–24 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Jennifer Ledford, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5946.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend airspace for Athens/Ben Epps Airport, Athens, GA, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2022–1333 and Airspace Docket No. 22–ASO–24) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–1333; Airspace Docket No. 22–ASO–24.'' The postcard will be dated/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except for federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class D airspace for Athens/Ben Epps Airport by extending the airspace from a 4-mile radius to a 4.6-mile radius surrounding the airport, and by updating the airport's geographic coordinates to coincide with the FAA's database. Also, Class E surface airspace, extension to Class D airspace, and transition airspace would be amended for the above airport. Class E surface airspace for Athens/Ben Epps Airport would be amended by extending the airspace from a −4-mile radius to a 4.6-mile radius surrounding the airport. The Class E airspace used for an extension to Class D will be reduced from 3 miles to 2.4 miles on each side of the Athens Point of Origin 195° bearing extending from the 4.6-mile radius of the Athens/Ben Epps Airport to 7.6 miles south of the Point of Origin and will be reduced from 3 miles to 1.4 miles each side of the Athens Point of Origin 076° bearing extending from the 4.6-mile radius of the airport to 7 miles east of the Point of Origin. The Class E5 transition airspace extending upward from 700 feet above the surface would be amended to within a 7.7-mile radius of Athens/Ben Epps Airport (reduced from an 11.5-mile radius). This eliminates the excess airspace that remained after the decommissioning of the Bulldog (BJT) non-directional beacon (NDB) and subsequent cancellation of the NDB Rwy 27 approach, effective October 15, 2015 (80 FR 61978). In addition, this action would replace the outdated terms Airport/Facility Directory with the term Chart Supplement and Notice to Airmen with the term Notice to Air Missions, in the airspace descriptions. This action is replacing the VORTAC used for airspace definition with a point-of-origin.

Class D and E airspace designations are published in Paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and

effective September 15, 2022, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Athens, GA [Amended]

Athens/Ben Epps Airport, Athens, GA
(Lat. 33°56′55″ N, long. 83°19′33″ W)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.6-mile radius of the Athens/Ben Epps Airport. This Class D airspace area is effective during the specified dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO GA E2 Athens, GA [Amended]

Athens/Ben Epps Airport, Athens, GA
(Lat. 33°56′55″ N, long. 83°19′33″ W)

That airspace extending upward from the surface within a 4.6-mile radius of the Athens/Ben Epps Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to Class D Surface Area.

* * * * *

ASO GA E4 Athens, GA [Amended]

Athens/Ben Epps Airport, Athens, GA
(Lat. 33°56′55″ N, long. 83°19′33″ W)
(Athens Point of Origin)
(Lat. 33°56′51″ N, long 83°19′29″ W)

That airspace extending upward from the surface within 2.4 miles on each side of the Athens Point of Origin 195° bearing extending from the 4.6-mile radius of the Athens/Ben Epps Airport to 7.6 miles south of the Point of Origin, and within 1.4 miles each side of the Athens Point of Origin 076° bearing extending from the 4.6-mile radius of the airport to 7 miles east of the Point of Origin. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO GA E5 Athens, GA [Amended]

Athens/Ben Epps Airport, GA
(Lat. 33°56′55″ N, long. 83°19′33″ W)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Athens/Ben Epps Airport.

Issued in College Park, Georgia, on November 2, 2022.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–24348 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1270

[CPSC Docket No. CPSC–2013–0022]

Safety Standard for Adult Portable Bed Rails

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking; notice of opportunity for oral presentation of comments.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) has determined preliminarily that there is an unreasonable risk of injury and death associated with entrapment hazards from adult portable bed rails (APBRs). To address these risks, the Commission proposes a rule under the Consumer Product Safety Act (CPSA) to require that APBRs meet the requirements of the applicable voluntary standard on APBRs, with modifications. The Commission is providing an opportunity for interested parties to present written and oral comments on this notice of proposed rulemaking (NPR). Like written comments, any oral comments will be part of the rulemaking record.

DATES:

Deadline for Written Comments: Written comments must be received by January 9, 2023.

Deadline for Request to Present Oral Comments: Any person interested in making an oral presentation must send an electronic mail (email) indicating this intent to the Office of the Secretary at *cpsc-os@cpsc.gov* by December 9, 2022.

ADDRESSES:

Written Comments: Comments related to the Paperwork Reduction Act aspects of the instructional literature and marking requirements of the proposed rule should be directed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.* In addition, written comments that are sent to OMB also should be submitted electronically at: *www.regulations.gov,* under Docket No. CPSC–2013–0022.

Other comments, identified by Docket No. CPSC–2013–0022, may be submitted by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket for NPR: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* insert the docket number CPSC–2013–0022 into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Vineed Dayal, Directorate for Engineering Sciences, Office of Hazard Identification and Reduction, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2292; *vdayal@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

In 2013, the CPSC received two requests to initiate proceedings under the CPSA to address an unreasonable risk of injury associated with APBRs. Gloria Black, the National Consumer

Voice for Quality Long-Term Care, Consumer Federation of America, and 60 other organizations made one request; Public Citizen Health Research Group made the other request. Collectively, the petitioners stated that many of the deaths and injuries involving APBRs result from asphyxiation caused by entrapment within openings of the APBR rail or between the rail and the mattress or bed frame. The petitioners requested that the CPSC initiate proceedings under section 8 of the CPSA to ban all APBRs. Alternatively, petitioners requested that the Commission initiate a rulemaking under section 9 of the CPSA to promulgate mandatory standards, including warning labels, to reduce the unreasonable risk of asphyxiation and entrapment posed by APBRs. Petitioners also requested action under section 27(e) of the CPSA to require manufacturers of APBRs to provide performance and technical data regarding the safety of their products.

The CPSC docketed the requests as a single petition: Petition CP 13–1, Petition Requesting a Ban or Standard on APBRs under the CPSA. On June 4, 2013, the Commission published a notice in the **Federal Register** seeking public comment concerning the petition (78 FR 33393). Also in 2013, ASTM International (ASTM) formed the ASTM F15.70 subcommittee to begin developing a voluntary standard for APBRs. On April 23, 2014, staff delivered a briefing package to the Commission (Staff's 2014 briefing package).[1] In that briefing package, staff responded to the comments received on the petition and recommended that the Commission defer a decision on the petition to allow the voluntary standards process to continue until the APBR standard had been developed and evaluated by staff. On April 29, 2014, the Commission voted to defer the petition to allow progress to continue on the voluntary standard.

On April 28, 2015, the Commission voted again to defer a decision on the petition to allow the ASTM voluntary standard development process to continue. Throughout this period, staff participated in the ASTM F15.70 subcommittee to develop the voluntary standard for APBRs. In August 2017, ASTM published the voluntary standard, ASTM F3186–17, *Standard Specification for Adult Portable Bed Rails and Related Products.*

On July 15, 2020, staff provided the Commission a briefing package on its review of ASTM F3186–17 (Staff's 2020 briefing package).[2] Staff's review indicated that ASTM F3186–17, with certain modifications to the labeling, warning statements, and instructional literature, would adequately address the hazards identified in the known incident reports. However, when staff assessed compliance to the voluntary standard, as discussed in section IV.B. of this preamble, staff found no market compliance with the voluntary standard. To increase market awareness of and compliance with the voluntary standard, in June 2020, CPSC's Office of Compliance sent a letter to 19 known APBR manufacturers, urging industry members to stop manufacturing, distributing, and selling APBRs that do not comply with ASTM F3186–17. Staff also continued to engage actively with the ASTM F15.70 subcommittee meetings. Staff presented and explained its testing results to the subcommittee members, provided the subcommittee with Compliance's letter to industry for all its members to review and disseminate, supplied updated incident data for the subcommittee's review, and participated as technical experts at all subcommittee task groups.

On March 9, 2022, staff provided to the Commission another briefing package on ASTM F3186–17 (Staff's 2022 briefing package).[3] Staff's 2022 briefing package updated the Staff's 2020 briefing package with incident data that included all known APBR incidents from January 2003 through September 2021. In addition, staff discussed the results of the two rounds of testing it had conducted on APBRs, and whether there was any change in the levels of compliance in the APBR market. Staff recommended that the Commission grant the petition and direct staff to prepare a briefing package and initiate rulemaking through a notice of proposed rulemaking (NPR) to address the entrapment hazards associated with APBRs.

On March 16, 2022, the Commission voted to grant Petition CP 13–1 and directed staff to proceed with this NPR. In this proposed rule, the Commission preliminarily determines that APBRs pose an unreasonable risk of injuries and deaths associated with entrapment hazards.[4] As discussed in section V. of this preamble, the Commission preliminarily determines that the voluntary standard is not likely to eliminate or adequately reduce the unreasonable risk of injury associated with entrapments on APBRs. Accordingly, the Commission is proposing to adopt the voluntary standard with specified modifications necessary to improve safety and adequately reduce the unreasonable risk of injury associated with entrapment on APBRs. The information discussed in this preamble is derived primarily from CPSC staff's briefing package for the NPR (Staff's NPR briefing package).[5]

This proposed rulemaking is authorized by the CPSA. 15 U.S.C. 2051–2084. Section 7(a) of the CPSA authorizes the Commission to promulgate a mandatory consumer product safety standard that sets forth performance or labeling requirements for a consumer product, if such requirements are reasonably necessary to prevent or reduce an unreasonable risk of injury. 15 U.S.C. 2056(a). Section 9 of the CPSA specifies the procedure that the Commission must follow to issue a consumer product safety standard under section 7 of the CPSA. In accordance with section 9, the Commission is commencing this rulemaking by issuing an NPR.

According to section 9(f)(1) of the CPSA, before promulgating a consumer product safety rule, the Commission must consider, and make appropriate findings to be included in the rule, on the following issues:

- The degree and nature of the risk of injury that the rule is designed to eliminate or reduce;
- The approximate number of consumer products subject to the rule;
- The need of the public for the products subject to the rule and the probable effect the rule will have on utility, cost, or availability of such products; and
- The means to achieve the objective of the rule while minimizing adverse effects on competition, manufacturing, and commercial practices.

Id. 2058(f)(1)

Under section 9(f)(3) of the CPSA, to issue a final rule, the Commission must find that the rule is ''reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product'' and that issuing the rule is in the public interest. *Id.* 2058(f)(3)(A)&(B). Additionally, if a

[1] Available at: *https://www.cpsc.gov/s3fs-public/pdfs/foia_PetitionCP131RequestforBanorStandardforAdultPortableBedRail.pdf.*

[2] Available at: *https://www.cpsc.gov/s3fs-public/Update%20on%20Peititon%20CP%2013-1%20-%20Requesting%20a%20Ban%20or%20Mandatory%20Standard%20on%20Adult%20Portable%20Bed%20Rails.pdf?kiDixW5Z7x9xcOqjxSeS3QpvspdfQMBY.*

[3] Available at: *https://www.cpsc.gov/s3fs-public/Petition-Requesting-a-Ban-or-Standard-on-Adult-Portable-Bed-Rails-Petition-CP-13-1.pdf.*

[4] The Commission voted 4–0 to approve this document.

[5] Available at: *https://www.cpsc.gov/s3fs-public/ProposedRuleSafetyStandardforAdultPortableBedRails.pdf?VersionId=Ypa89Iczh13C40Tq7EJRSMDZoatChf1.*

voluntary standard addressing the risk of injury has been adopted and implemented, the Commission must find that:

- The voluntary standard is not likely to eliminate or adequately reduce the risk of injury, *or*
- Substantial compliance with the voluntary standard is unlikely.

Id. 2058(f)(3)(D). The Commission also must find that expected benefits of the rule bear a reasonable relationship to its costs and that the rule imposes the least burdensome requirements that would adequately reduce the risk of injury. *Id.* 2058(f)(3)(E)&(F).

II. Product Description

There are several types of bed rails available to consumers under CPSC jurisdiction.[6] ASTM F3186–17 (section 1.2) describes ''portable bed rails and related products'' as products installed by consumers and ''not designed as part of the bed by the bed manufacturer.'' Generally, APBRs within CPSC's jurisdiction include products that are installed or used alongside of a bed by consumers and are intended to reduce the risk of falling from the bed, assist the consumer in repositioning in the bed, or assist the consumer in transitioning into or out of the bed. Figure 1 below shows four types of bed rails.

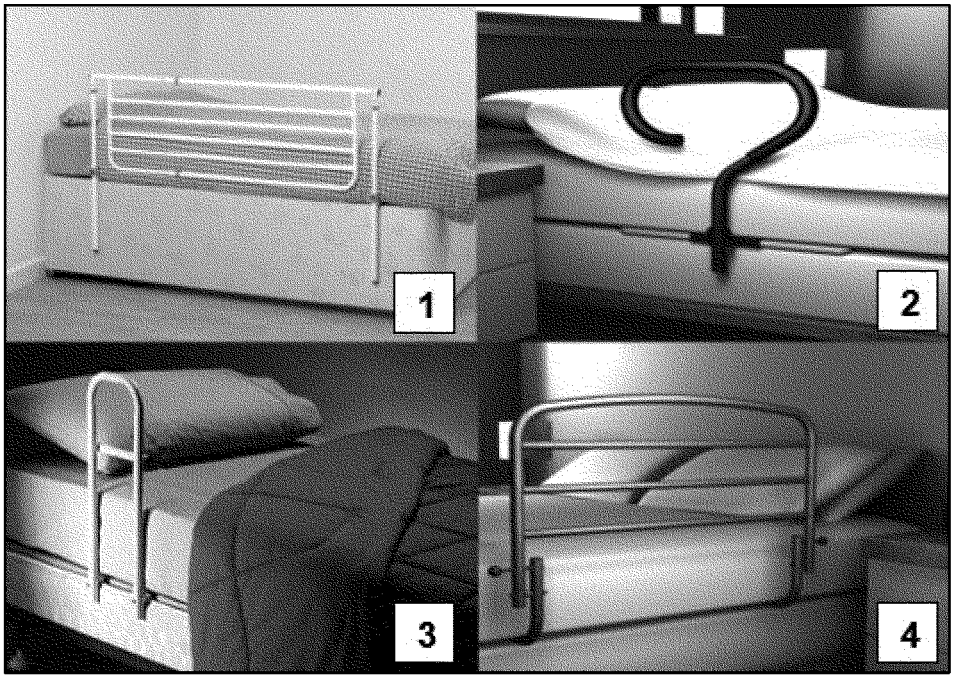


Figure 1: General examples of APBR types – (1) Full-Length Bed Rail, (2) Bed Cane, (3) Bed Handle, and (4) Half-Length Bed Rail

Although similar in design, these products may have different functions. Some are meant to keep the occupant from rolling out of bed, and others are intended to assist an occupant in getting in and out of bed or repositioning on the bed surface. Some of these products can serve both functions. Because of the similarity in design and means of attachment to the side of the bed, products intended for both types of uses can have the same potential entrapment hazards, as discussed in section III of this preamble.

In September and October 2021, CPSC staff conducted an online search that identified 12 firms supplying 65 distinct APBR models. Retail prices for the identified APBR models ranged from $38 to $275. Based on an interview with one APBR manufacturer's representative and market information from the identified APBR models, staff estimates that in 2021, the mean retail price is $50 per APBR; total market revenues are approximately $9 million; and the number of APBRs sold that year was approximately 180,000 units.

III. Risk of Injury

CPSC staff summarized the data on deaths and injuries involving APBRs (Tab A: Division of Hazard Analysis: Directorate for Epidemiology (EPHA)). Staff reviewed Consumer Product Safety Risk Management System (CPSRMS) injury cases and National Electronic Injury Surveillance System (NEISS) injury cases that occurred in the period from January 1, 2003, through December 31, 2021.

A. CPSRMS

Staff identified a total of 332 incident reports for the period January 2003 to December 2021. Of these, 310 were reports of fatalities, and 22 were reports of nonfatal incidents. Most of the

[6] Information on adult bed rails regulated by the U.S. Food and Drug Administration (FDA) jurisdiction is available at: *www.fda.gov/medical-devices/bed-rail-safety/safety-concerns-about-bed-rails.* FDA regulations do not reference ''bed rails'' or ''bed handles''; rather, FDA regulations refer to ''movable and latchable side rails.'' See 21 CFR 880.5100, 880.5110, 880.5120. The FDA regulates adjustable hospital beds used for medical purposes. Bed rails that are an accessory or appurtenance to regulated hospital beds are considered by the FDA to have a medical purpose and to be devices subject to FDA jurisdiction. APBR intended for use with a non-FDA regulated bed and that are not considered by the FDA to have a medical purpose fall under the CPSC's jurisdiction. These types of bed rails are within the CPSC's jurisdiction regardless of the bed's location (*i.e.,* long-term care facility, hospice, or residence). ASTM F3186–17 (section 1.3) covers both APBRs that meet the definition of a medical device under FDA's jurisdiction, and APBRs that are not medical devices, and fall under CPSC's jurisdiction pursuant to the CPSA.

incidents were identified from death certificates, medical examiner reports, or coroner reports. Death certificate data often have lag time of around two to three years from date of reporting. As the APBR data in CPSRMS are heavily reliant on death certificates, data collection is ongoing and incident data for 2020, 2021, and 2022 should all be considered incomplete, and likely to increase.

The remaining incidents were extracted from various sources including newspaper clippings, consumer reports, and manufacturer and retailer reports to CPSC. These documents contain limited information on incident scenarios. The age range of victims in the 305 fatal incidents for which age was reported was 14 to 103 years. More than 75 percent of the incident victims were age 70 or older, and almost 80 percent of the reported fatalities involved victims ages 70 or older. Table 1 below presents the distribution of these APBR incidents by age.

TABLE 1—DISTRIBUTION OF REPORTED APBR-RELATED INCIDENTS BY AGE

Age group (years)	Fatalities	Nonfatalities	Total
13–29	7	0	7
30–59	30	0	30
60–69	22	0	22
70–79	47	2	49
80–89	124	2	126
90 or older	75	1	76
Unknown/Unspecified	5	17	22
Total	310	22	332

Source: CPSRMS (2003–2021).

Table 2 details the distribution of these APBR-related incidents by gender. Approximately 70 percent of all incident victims and incident fatalities were female.

TABLE 2—DISTRIBUTION OF REPORTED APBR-RELATED INCIDENTS BY GENDER

Gender	Fatalities	Nonfatalities	Total
Male	88	7	95
Female	221	8	229
Unknown/Unspecified	1	7	8
Total	310	22	332

Source: CPSRMS (2003–2021).

Approximately 50 percent of all APBR-related incidents and fatalities occurred at home. Other commonly reported locations included nursing homes, assisted living facilities, and residential institutions, for example.[7] Table 3 below shows the frequency of each location reported.

TABLE 3—DISTRIBUTION OF REPORTED APBR-RELATED INCIDENTS BY LOCATION

Location	Fatalities	Nonfatalities	Total
Home	158	6	164
Nursing Home	50	0	50
Assisted Living Facility	40	2	42
Residential Institution	14	0	14
*Other**	23	0	23
Unknown/Not Reported	25	14	39
Total	310	22	332

Source: CPSRMS (2003–2021).
* Includes care home/center, foster home, group home, retirement center, adult family home and hospice.

The majority of reports, 58 percent, indicated that the victim suffered from at least one underlying medical condition. Almost 34 percent were reported to have more than one medical condition. Table 4 below summarizes the most common underlying medical conditions reported.

[7] All of these reported incidents occurred with APBRs that fall under the CPSC's jurisdiction.

TABLE 4—DISTRIBUTION OF REPORTED APBR-RELATED INCIDENTS BY MEDICAL CONDITION * +

Condition	Fatalities	Nonfatalities	Total
Cardiovascular disease	87	0	87
Alzheimer's/Dementia/Mental	73	0	73
Mobility/Paralysis/Stroke	20	0	20
Parkinson's disease	17	1	18
Pulmonary disease	10	0	10
Cancer	7	0	7
Cerebral palsy	6	0	6
Multiple sclerosis	5	0	5
*Other**	20	0	20
Unknown/Not Reported	123	21	144

Source: CPSRMS (2003–2021).

* Other significant conditions included tracheotomy and G-tube, severe burn, post-surgery, fracture, seizure, Lesch-Nyhan syndrome, amyotrophic lateral sclerosis, multiple drug ingestion, renal disease, agitation, diabetes, sepsis, leukemia, severe disabilities, advanced age, and general weakness.

+ Table 4 sums to more than 332 due to multiple conditions reported.

B. NEISS

Between January 2003 and December 2021, there were an estimated 79,500 injuries related to adult bed rails treated in hospital emergency departments (EDs) across the United States. There appeared to be a statistically significant increasing trend in injuries during this period. Staff's review showed that in the vast majority of NEISS cases, there was insufficient information available in the case narrative to determine whether the bed rail product involved was specifically an adult portable bed rail, or just a regular adult bed rail; only one case narrative specifies the product involved as an adult portable bed rail. Hence, the estimates presented in Table 5, which provides an overview of the estimated number of adult bed rail-related injuries per year, may be an overestimate. An estimated injury rate per 100,000 population has also been calculated, based on estimates of population ages 13 and older provided by the U.S. Census Bureau.

TABLE 5—NEISS ESTIMATES FOR INJURIES RELATED TO ADULT BED RAILS, JANUARY 2003–DECEMBER 2021

Year	Estimate [8]	Sample size	Injury rate [9]
2003	4,500	98	1.88
2004	3,400	82	1.39
2005	3,900	94	1.61
2006	3,400	72	1.38
2007	4,300	98	1.73
2008	4,200	102	1.67
2009	3,600	98	1.42
2010	4,000	100	1.56
2011	3,700	95	1.44
2012	3,100	81	1.20
2013	4,700	127	1.79
2014	4,400	108	1.66
2015	4,600	112	1.73
2016	3,700	91	1.36
2017	4,900	128	1.81
2018	4,300	104	1.55
2019	4,500	112	1.63
2020	5,100	113	1.82
2021	5,100	131	1.83
Total	79,500	1,946	.....

Source: NEISS (2003–2021). Estimates rounded to nearest 100; rows may not add to total due to rounding.

The vast majority (88 percent) of patients were treated and released or examined and released without treatment, while approximately 11 percent were hospitalized or held for observation. There was only one NEISS case that involved a death; the remaining 1,945 involving nonfatal injuries. This one NEISS case involving a death is separate from any of the CPSRMS incidents, and it was unclear what specific type of product was involved.

C. Hazard Patterns

Staff from CPSC's Directorate for Health Sciences (HS) and from the Human Factors Division of the Directorate for Engineering Sciences (ESHF) (Tabs B and C of Staff's NPR briefing package) reviewed the incident

[8] According to the NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33 percent or smaller. All yearly estimates meet these criteria, and thus, are reportable.

[9] Obtained by dividing NEISS estimates by U.S. Census Bureau population estimate for the respective year (for ages 13+). Latest data can be found here: National Population by Characteristics: 2020–2021 (*census.gov*), *https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-detail.html.*

data to assess the affected population and the hazard modes associated with incidents involving APBRs. Staff found that the vast majority of incident victims in CPSRMS were members of vulnerable populations.

- More than 75 percent of the victims were age 70 or older.
- More than 80 percent of the reported fatalities involved victims ages 70 or older.
- Fifty-eight percent of victims suffered from at least one underlying medical condition.
- Almost 34 percent of victims were reported to have more than one medical condition.

Staff grouped the hazard types into four categories based on the bed rail's role in the incident. The categories are listed in order of highest to lowest frequency.

- Rail entrapment: There were 286 incidents related to rail entrapment. This category includes incidents in which the victim was caught, stuck, wedged, or trapped between the mattress/bed and the bed rail, between bed rail bars, between a commode and rail, between the floor and rail, between the night table and rail, or between a dresser and rail. Based on the narratives, the most frequently injured body parts were the neck and head. This category includes 284 fatalities and two nonfatal injuries from entrapment or wedging between the bed rail and mattress.
- *Falls:* There were 25 incidents related to falls. This category includes incidents in which the victim fell off the bed, fell and hit the bed rail, or hit and fell near the bed rail, and fell after climbing over the bed rail. This category includes 23 deaths, one nonfatal knee fracture and one non-injury incident.
- *Structural integrity:* There were 11 incidents related to structural component problems (weld of bed rail broke and bed rail not sturdy). This category includes one laceration, one head bump, one bruise, two unspecified injuries, and six non-injury incidents.
- *Miscellaneous:* There were 10 incidents with miscellaneous problems (hanging on the bed rail after garment got caught, hand, arm or leg laceration, pinched radial nerve against the bed rail, complaint about a misleading label, complaint about a bed rail that was noncompliant with the ASTM standard, and a claim against a bed rail manufacturer about an unspecified issue). This category includes three deaths, three lacerations, one pinched nerve, one unspecified injury, and two non-injury incidents.

Rail entrapment, the most common hazard pattern among all reported incidents, accounted for more than 90 percent (284 of 310) of the fatal incidents. A review of the In-Depth Investigations (IDIs) [10] confirmed that APBRs product types, like those shown in Figure 1, were involved in these entrapment incidents. The victim was typically found with their torso between the product and the mattress frame, with their neck resting on the lower bar. Three other hazard patterns were also reported: (1) chin resting on the bar; (2) patient slumped backwards, partially suspended with the thorax lodged and compressed in the gap between the rail and mattress; and (3) slumped through the bar opening. The medical examiners in these cases listed the causes of death as ''positional asphyxia,'' with an additional list of ''underlying factors'' or ''contributory causes.'' Staff's analysis of the data revealed that the head and neck were the body parts most frequently entrapped, with positional asphyxia (neck against rail) identified as the most common cause of death. Sustained external pressure on the neck can lead to ''asphyxia,'' defined in medical literature as the failure of cells to thrive in the absence of oxygen. Neck compression, with or without airway blockage, can result in death, even when the body remains partially supported, because blood vessels taking blood to and from the brain and the carotid sinuses are located in soft tissues of the neck and are relatively unprotected.

Of the 310 fatal incidents, approximately 34 percent reported the victim to have multiple medical conditions, and approximately 58 percent of incidents reported at least one underlying medical condition. The vast majority of nonfatal incident reports (all reports except one) did not list any underlying medical condition. Preexisting chronic medical conditions or disorders included Alzheimer's disease, dementia, and other mental limitations; Parkinson's disease; cerebral palsy; multiple sclerosis; Lesch-Nyhan syndrome;[11] amyotrophic lateral sclerosis; cancer; cardiovascular disease; and pulmonary disease. Other conditions included victims with stroke, paralysis, seizures, heavy sedation, and drug ingestion. These factors can limit mobility or mental acuity and contribute to the risk of death by entrapment, because individuals with these conditions are particularly vulnerable and often cannot respond to the danger and free themselves. As discussed in Tab B of the Staff's NPR briefing package, adult aging issues can contribute to entrapments, including age-related declines in muscular strength, muscular power, motor control and coordination, and balance. Consumers 70 years and older, who represent the victims in most APBR-related fatalities, are especially vulnerable to such declines. Also, consumers commonly purchase and use APBRs because they require help when getting in or out of bed. Therefore, many APBR users would likely be less capable of escaping an entrapment scenario than the general population.

CPSC staff identified falls as the second most common hazard pattern associated with APBRs, accounting for 25 incidents (8 percent), 23 of which resulted in fatality. Staff found that most falls associated with APBRs involve the victim falling against or striking the APBR, but these incident reports usually have limited details. Therefore, the APBRs might have played an incidental role in some of these cases. A minority of fall-related incidents, according to staff's review, involved the victim deliberately climbing over the APBR.

IV. ASTM F3186–17

To issue a final rule under section 9(f)(3) of the CPSA if a voluntary standard addressing the risk of injury has been adopted and implemented, the Commission must find that:

- The voluntary standard is not likely to eliminate or adequately reduce the risk of injury, *or*
- Substantial compliance with the voluntary standard is unlikely.

Based on staff's review of ASTM F3186–17, the Commission has preliminarily determined that the voluntary standard is not likely to eliminate or adequately reduce the unreasonable risk of injury associated with entrapments on APBRs. In addition, based on several rounds of testing of APBRs, conducted by staff as discussed below, the Commission has preliminarily determined that substantial compliance with the voluntary standard is also unlikely. Accordingly, in this rule, the Commission proposes to incorporate by reference ASTM F3186–17, with modifications, to address the entrapment hazards associated with APBRs. CPSC staff's assessment of the provisions of ASTM F3186–17 are summarized below.

[10] IDIs contain summaries of reports of investigations into events surrounding product-related injuries or incidents based on victim/witness interviews.

[11] A rare genetic disease characterized by neurological and behavioral abnormalities and occurs almost exclusively in males.

A. Assessment of ASTM F3186–17 Performance Requirements

1. Terminology

ASTM F3186–17 establishes performance requirements for APBRs, including requirements for resistance to entrapment, marking and labeling, and instructional literature. Section 3.1.1 of ASTM F3186–17 defines ''adult portable bed rail'' as:

> [A]n adjacent type bed rail, grab bar, assistive bar, transfer aid, cane or rail (henceforth identified as the product or products) intended by the manufacturer to be installed on, against, or adjacent to an adult bed. The product may vary in lengths (for example, full, half, or partial rails, grab bar or handle or transfer post or pole), and is intended by the manufacturer to aid the bed occupant in moving on the bed surface, in entering or exiting the bed, to minimize the possibility of falling out of bed, or for other similar purposes. This includes similar products that are likely to be used for these purposes even if this is not explicitly stated by the manufacturer. However, the standard does not address all products that might be so used, for example, a chair.

ASTM F3186—17 (section 3.1.2) defines ''adjacent type bed rail'' as:

> [A] portable bed rail or related product in which the guard portion (portion that an adult would contact when rolling toward the mattress edge) is essentially a vertical plane or pole that is positioned against the side of the mattress.

The Commission preliminarily determines that these definitions are appropriate for evaluating APBRs that: (1) are installed or used along the side of a bed and intended to reduce the risk of falling from the bed; (2) assist the consumer in repositioning in the bed; or (3) assist the consumer in transitioning into or out of the bed.

2. General Requirements

Section 5 of ASTM F3186–17 sets out general requirements. Section 5.1 requires that there will be no hazardous sharp points or edges. Section 5.2 states that any exposed parts shall be smooth and free from rough edges. Section 5.3 requires that products covered by the standard that are installed on a bed that articulates (*i.e.,* is adjustable) must meet the performance requirements when the bed is in the flat and articulated positions.

General requirements mandating smooth edges on exposed parts improve safety by preventing potential lacerations or skin injuries from APBRs. In addition, testing APBR products on articulating beds allows assessment of openings that could potentially lead to entrapment when the bed is adjusted from the flat position to the articulated position.

3. Performance Requirements

In addition to the general requirements, several performance requirements in ASTM F3186–17 are intended to address the risk of injury associated with APBRs. These include requirements for assembly, structural integrity, retention system performance, and fall and entrapment prevention.

a. Misassembly and Misinstallation

Staff identified 284 fatal incidents related to rail entrapment. This hazard pattern is the most prevalent among the incidents, accounting for more than 90 percent of all fatal incidents. Effectively addressing the entrapment hazard associated with APBRs depends upon, among other things, consumers assembling and installing the product properly. ASTM F3186–17 includes performance requirements intended to improve the likelihood that the APBR will be assembled and installed properly. For example:

- Section 6.1 sets forth a requirement for products to include a retention system, which maintains the installed product in position without requiring readjustment of the components. This retention system must be permanently attached to the APBR once it has been assembled and must not be removable without the use of a tool.
- Section 6.2 includes structural integrity requirements that call for the product to be tested without changing dimensions.
- Section 6.5 requires that structural components and retention system components must not be capable of being misassembled, which the standard defines as the APBR being assembled in a way that appears functional but would not meet the retention system (section 6.1), structural integrity (6.2), entrapment (6.3), or openings (6.4) requirements.

The requirement that retention systems be permanently attached to the APBR once it has been assembled, and removable only with a tool, reduces the likelihood that consumers will misplace the retention system, and increases the likelihood that consumers, including secondary users, will continue to use the retention system. The requirement that structural and retention system components not be misassembled reduces the risk of injury or death that could arise from the consumer omitting key parts of the APBR (*e.g.,* a center rail) during assembly, in ways that could result in entrapment or other hazards. However, the Commission seeks comment on whether this sufficiently reduces the risk, or if other measures, are needed.

b. Falls

Falls were the second most common hazard pattern in the incident data, accounting for 25 incidents (8 percent). Staff found that most falls associated with APBRs involve the victim falling against or striking the APBR, but these incident reports usually have limited details. Therefore, the APBRs might have played an incidental role in some of these cases. If the fall was triggered by the APBR becoming dislodged, or its position shifted, then these incidents potentially may be addressed by the voluntary standard's structural integrity testing and the requirement of a permanently attached retention system to maintain the installed product in position. For example, section 6.2 of ASTM F3186–17 includes a ''structural integrity'' requirement that calls for the installed APBR to extend at least 4 inches above the top of the thickest recommended mattress. This minimum height requirement for APBRs may address some fall incidents by limiting the ability of consumers to climb over these products. However, some fall-related incidents involved the victim deliberately climbing over the APBR and this requirement may not prevent such consumers from falling over the bed rail.

c. Entrapment Testing

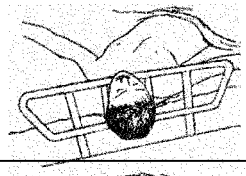
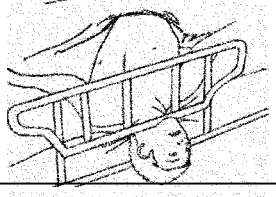
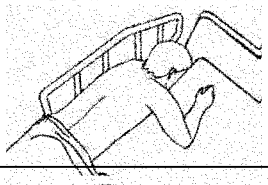
Staff identified entrapment as the most prevalent hazard pattern among the incidents. In accordance with the entrapment test methods specified in section 8 of the standard, section 6.3 of ASTM F3186–17 requires products to be tested to assess the potential for entrapment in four different zones. These zones represent four of the seven sectors identified by the FDA in its 2006 guidance document, Hospital Bed System Dimensional and Assessment Guidance to Reduce Entrapment (FDA, 2006), as potential areas of entrapment in hospital bed systems.[12] The FDA's guidance is based on recommendations from the Hospital Bed Safety Workgroup (HBSW), which was formed in 1999 to address reports of patient entrapment. ASTM F3186–17 specifies the FDA probe to test entrapment zones. The probe design is based on the anthropometric dimensions of key body

[12] The FDA guidance document is available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/hospital-bed-system-dimensional-and-assessment-guidance-reduce-entrapment.* (FDA, 2016). Three of the zones identified in the FDA guidance (Zone 5, Zone 6, and Zone 7) are not applicable to APBRs, or could not be tested for entrapment, and therefore, they are excluded from ASTM F3186–17.

parts, including the head, neck, and chest of at-risk adults.

Section 8.4 defines the four entrapment zones tested under ASTM F3186–17, which are (1) within the product; (2) between rail support(s) and the bed mattress, when applicable, under the product; (3) between the product and the mattress; and (4) between the underside of the end of the product and the mattress. Entrapment testing to ASTM F3186–17 is performed using the anthropometric ''entrapment test probe,'' which is the cone and cylinder tool described in the 2006 FDA guidance document (section 7.2). In addition, some entrapment zones require using a force gauge to test the force applied on the test probe (section 7.3). Table 6 below, describes the four entrapment zones, with illustrations from the 2006 FDA guidance document of sample entrapments within each of these zones.

Table 6: ASTM F3186 – 17 Entrapment Zones

Zone 1: Within the Product Entrapment in any open space within the perimeter of the APBR	
Zone 2: Between Rail Support(s) and the Bed Mattress, When Applicable, Under the Product Entrapment under the bottom edge of the APBR, between the rail supports or next to a single rail support, against the mattress	
Zone 3: Between the Product and the Mattress Entrapment in the space between the inside surface of the APBR and the side of the mattress	
Zone 4: Between the Underside of the End of the Product and the Mattress Entrapment under the lowermost portion of the end of the APBR, against the mattress	

Staff's review of the rail entrapment incidents, test requirements, and test methods showed that most of the reported entrapment fatalities involved one of the four zones listed above. Specifically, staff could determine the entrapment location of 214 of the 284 fatal incidents, and all but six of these cases occurred in one of the four zones of entrapment tested in ASTM F3186–17, as shown in Table 7 below. Based on this analysis, it is likely that most of the 70 incidents for which there was insufficient information to identify the location of the entrapment also involved one of these four zones.

TABLE 7—RAIL ENTRAPMENT INCIDENT LOCATIONS RELATIVE TO ASTM F3186–17 ENTRAPMENT ZONES

Rail entrapment location	Entrapment testing location	Number of fatalities
Between APBR and mattress	Zones 2, 3, or 4	200
Within APBR itself	Zone 1	8
Against outside of APBR	None	5
Between APBR and headboard	None (Zone 6)	1
Unknown location	Unknown	70
Total		284

Staff's evaluation that rail entrapments predominantly occur in Zones 1 through 4 is also consistent with the FDA's finding that these four zones accounted for about 80 percent of hospital bed rail entrapment events reported to the FDA. FDA's recommended dimensional limits for these zones and the anthropometric test probe, serve as the basis for the entrapment requirements of ASTM F3186–17. CPSC's review indicates that the performance requirements in the standard, which are based on identified entrapment patterns and related anthropometric data, would effectively address the entrapment hazard patterns related to APBRs with proposed modifications, as discussed in section V. of this preamble.

d. Labeling, Warning, and Instructional Literature Requirements

Section 9.1 of ASTM F3186–17 specifies that the labeling on the APBR and its retail packaging must be marked with the type and size of beds and mattresses, including the mattress thickness range for which the APBR is intended. In addition, the labeling and retail packaging on the APBR must state the appropriate distance between an installed APBR and the headboard or footboard of the bed. The space between the APBR and headboard or footboard is considered Zone 6 under the 2006 FDA guidance document. ASTM F3186–17 requires the consumer to correctly install the APBR at the specified distance from the headboard or footboard to prevent entrapment. This hazard is addressed by requiring labeling on the APBR to state the appropriate distance between an installed APBR and the headboard or footboard of the bed. Section 9.1 also specifies that all on-product labels must be permanent.

Section 9.2 establishes requirements for warning statements that must appear on the APBR and its retail packaging, instructions, and digital or print advertising. The warning statements must be easy to understand, and any other labels or written instructions provided along with the required statements cannot contradict or confuse the meaning of the required warnings or otherwise be misleading.

Section 11 specifies requirements for instructional literature that must accompany APBRs. The instructions provided must be easy to read and understand; include assembly, installation, maintenance, cleaning, operation, and adjustment instructions and warnings, where applicable; include drawings or diagrams to provide a better understanding of set up and operation of the product; include drawings that depict all the entrapment zones; and include all warning statements specified in section 9.2, including warnings about product damage or misalignment.

Although requirements for labeling, warning, and instructional requirements are less effective at reducing hazards than product designs that directly address known hazards, these requirements in the standard improve safety by addressing risks that may not be eliminated through design.

For the reasons discussed in section V. of this preamble, the Commission preliminarily determines that the voluntary standard is not likely to eliminate or adequately reduce the unreasonable risk of injury associated with entrapments on APBRs. Accordingly, the Commission is proposing to adopt the voluntary standard with specified modifications necessary to improve safety and adequately reduce the unreasonable risk of injury associated with entrapment on APBRs.

B. Assessment of Compliance to ASTM F3186–17

Staff conducted two rounds of market compliance testing to ASTM F3186–17: the first round in 2018 and 2019, the second round in 2021. In both rounds, no APBRs met all requirements of ASTM F3186–17. All products failed at least one critical mechanical requirement, such as retention strap performance, structural integrity, and entrapment. As described in Tabs C and D of the Staff's NPR briefing package, an APBR that fails any one mechanical performance requirement could result in a fatal entrapment. Furthermore, all products failed the labeling, warning, and instructional requirements. This section discusses market compliance with ASTM F3186–17.

1. 2018–2019 APBR Market Compliance Testing

From 2018 through 2019, CPSC's Directorate for Laboratory Sciences, Division of Mechanical Engineering staff tested 35 randomly selected APBR models for compliance with ASTM F3186–17, which became effective in August 2017. APBRs were purchased in 2018. Staff tested the products to determine if they conformed to the general requirements and the performance requirements of the standard. Staff also tested conformance with the labeling, warning, and instructional literature requirements. Staff found that none of the 35 sampled products conformed to the voluntary standard. Staff assessment showed that market compliance with the standard was low when staff purchased the samples in 2018, after the standard had become effective. However, due to the lack of compliant labeling, staff could not confirm all the manufacture dates for the products to compare them to the standard's effective date. As shown in Table 8 below, compliance varied by section of the standard. Overall, 33 APBR models did not meet the entrapment performance requirements, and none of the 35 models met the labeling, warnings, or instructional literature requirements.

TABLE 8—ASTM F3186–17, 2018 APBR MARKET COMPLIANCE TESTING RESULT SUMMARY

Section	Title	Number of failed samples	Failure rate (%)
		(of 35 Total samples tested)	
General Requirements:			
5.1	Hazardous Points/Edges	0	0
5.2	Jagged Surfaces	0	0
5.3	Articulated Beds	0	0
Performance Requirements:			
6.1	Retention Systems	28	80
6.2	Structural Integrity	15	43
6.3	Entrapment	33	94
6.4	Openings	0	0
6.5	Misassembled Products	8	23
Labels and Warnings Requirements:			
9.1	Labeling	35	100
9.2	Warning Statements	35	100
Instructional Literature:			
11	Instructional Literature	35	100

Of the 35 APBR models staff tested, 33 failed at least one of the entrapment requirements for the four different zones in and around the APBR. In other words, 94 percent of samples had at least one major zone where a body part could be entrapped. Furthermore, many samples failed the entrapment requirements in multiple zones: 14 failed the Zone 1 entrapment requirement; 27 failed Zone 2; 11 failed Zone 3; and 6 failed Zone 4.

Staff's testing also revealed high failure rates in several other sections, including the retention system requirements (28 of 35 samples), and structural integrity requirements (15 of 35 samples). These types of failures indicate that the product may not stay rigidly in place after installation and will not adequately support the consumer during normal use conditions, such as leaning against the product. Not meeting these requirements thus significantly increases the likelihood of entrapment and fall hazards.

Retention system failures occurred when components were not permanently attached to the product, the retention strap permanently deflected or detached during the free-end pull test,[13] or the retention system did not restrain the product during entrapment testing. Structural integrity failures occurred when the APBR did not extend at least 4 inches over the top of the thickest recommended mattress, or when fasteners loosened or detached during testing, causing the product to change dimensions.

All 35 models failed the labeling, warning, and instructional literature requirements. None of the 35 models fully met the following requirements: section 9.1 for retail packaging and product labels; section 9.2, which specifies that warning statements must appear on the product, its retail package, and its instructions; and section 11's requirement to include instructional literature with required warning statements. None of the samples adequately instructed consumers how to safely install the APBRs; nor did the samples adequately inform consumers of the known hazards related to APBRs. Detailed testing results are provided in Appendix A of the Staff's NPR briefing package.

2. 2021 APBR Market Compliance Testing

In 2021, CPSC staff conducted a second round of product testing to ASTM F3186–17 to determine if the additional time and outreach efforts by staff since 2018 was sufficient for manufacturers to increase their overall level of compliance to the standard. A representative total of 17 APBR products were selected and procured for testing: these included all eight APBR models that staff identified as new to the market since the 2018 analysis, and nine additional, randomly selected models from the remaining models available in the market. The nine randomly selected models were products previously identified as available in the 2018 analysis, and were included to account for any undisclosed changes to the models that may have improved their compliance to the voluntary standard.

The 2021 testing, like the 2018 analysis, was designed to assess overall compliance to the voluntary standard, with a focus on certain sections including Retention Systems, Structural Integrity, Entrapment, Openings, Misassembled Products, Warning Statements, and Instructional Literature. All 17 samples failed at least one of these performance requirements. Detailed testing results are provided in Appendix B of the Staff's NPR briefing package. Because testing of a sample was stopped after it failed to meet at least one performance requirement, the data collected may not account for all the potential nonconformities for each product.

Additionally, none of the 17 models met the labeling, warnings, and instructional literature requirements. As shown in Table 9 below, the failure modes of this analysis are similar to those in the 2018 analysis, indicating little-to-no changes in the market over this time.

TABLE 9—ASTM F3186–17, 2021 APBR MARKET COMPLIANCE TESTING RESULT SUMMARY

Section	Title	Number of failed samples	Number of samples tested
General Requirements:			
5.1	Hazardous Points/Edges	0	17
5.2	Jagged Surfaces	0	17
5.3	Articulated Beds		0
Performance Requirements:			
6.1	Retention Systems	13	17
6.2	Structural Integrity	7	7
6.3	Entrapment	14	16
6.4	Openings		0
6.5	Misassembled Products	1	1
Labels and Warnings Requirements:			
9.1	Labeling	17	17
9.2	Warning Statements	17	17
Instructional Literature:			
11	Instructional Literature	17	17

4. Section 15 Compliance Actions 2021–2022

CPSC has issued five public notices regarding APBRs that did not comply with ASTM F3186–17. In April 2021, CPSC warned consumers to stop using three models of APBRs manufactured by Bed Handles, Inc., because the products pose an entrapment hazard.[14] Bed Handles, Inc., manufactured approximately 193,000 units of the bed rails, and CPSC is aware of four entrapment deaths associated with them.

In December 2021, CPSC announced voluntary recalls of APBRs manufactured by three firms, due to the

[13] The proposed rule defines ''free-end'' as the location on the retention system that is designed to produce a counter force; it may be a single distinct point or a location on a loop.

[14] Press Release (PR) #21–122, *https://www.cpsc.gov/Newsroom/News-Releases/2021/CPSC-Warns-Consumers-to-Stop-Use-of-Three-Models-of-Adult-Portable-Bed-Rails-Manufactured-by-Bed-Handles-Inc-Due-to-Entrapment-Asphyxia-Hazard.*

entrapment hazard and risk of death by asphyxia posed by their products:

- Drive DeVilbiss Healthcare (496,100 units, 2 deaths); [15]
- Compass Health Brands (104,900 units, 3 deaths); and [16]
- Essential Medical Supply, Inc. (272,000 units, 1 death).[17]

In June 2022, CPSC warned consumers to stop using 10 models of APBRs manufactured and sold by Mobility Transfer Systems, Inc. from 1992 to 2021, and by Metal Tubing USA, Inc. in 2021 and 2022. Three entrapment deaths involving one model have occurred.[18] Neither firm agreed to conduct a recall. Approximately 285,000 units were manufactured.

5. APBR Market Compliance Testing Summary

As discussed in section V. of this preamble, the Commission preliminarily determines that, without additional modifications, the voluntary standard is insufficient to eliminate or adequately reduce the unreasonable risk of injury of entrapments on APBRs. Moreover, based on staff's test results showing that there is no market compliance with the voluntary standard, the Commission preliminarily determines that substantial compliance to a voluntary adult portable bed rail safety standard is unlikely. Accordingly, the Commission proposes to incorporate by reference, ASTM F3186–17 with modifications, to require APBR manufacturers to comply with the mandatory standard and thereby improve safety.

V. Proposed Requirements

The Commission preliminarily determines that ASTM F3186–17, with modifications to improve safety, would likely address all known product hazard modes associated with APBRs, and particularly entrapment. These modifications are as follows:

- Provide additional definitions for product ''assembly'' and ''installation'' to ensure their consistent and differentiated use throughout the document;
- Include recommendations for manufacturers to take into account the range of mattress thicknesses to ensure safe use of the product by the consumer and provide testers with additional guidance for selecting the mattress thickness during the test setup;
- Address inconsistencies with stated dimensions to ensure consistent dimensional tolerances;
- Provide additional clarity for Zone 1 and 2 test setup and methods;
- Provide additional guidance for identifying potential Zone 2 openings;
- Update the requirements for Zone 3 testing for consistency; and
- Make grammatical and editorial corrections.[19]

A. Description of Proposed § 1270.1—Scope, Application, and Effective Date

Proposed § 1270.1 provides that new part 1270 establishes a consumer product safety standard for APBRs manufactured after 30 days after publication of the final rule in the **Federal Register**.

B. Description of Proposed § 1270.2—Requirements for Adult Portable Bed Rails

Proposed § 1270.2 sets forth the requirements for APBRs that are required in addition to those required by ASTM F3186–17. Section 1270.2(a) would require each APBR to comply with all applicable provisions of ASTM F3186–17 with the following changes as set forth in § 1270(b):

1. Propose New Clarifying Definitions on ''Assembly'', ''Installation'' and ''Component''(Sections 3.18, 3.1.9, 3.1.10)

The Commission proposes to add the following new definitions to ASTM F3186–17.

- Section 3.1.8: *Initial Assembly,* the first assembly of the product components after purchase, and prior to installing on the bed.
- Section 3.1.9: *Initial Installation,* the first installation of the product onto a bed or mattress.
- Section 3.1.10: *Installation Component,* component(s) of the bed rail that is/are specifically designed to attach the bed rail to the bed and typically located under the mattress when in the manufacturer's recommended use position.

These proposed definitions are intended to differentiate between ''assembly'' and ''installation'' so manufacturers can ensure products meet the requirements of sections 6.1.3 and 9.2.7, as discussed below. Although ''installation component'' is used throughout the voluntary standard, it was not explained. The new proposed definition helps clarify the location of warnings from section 9.2.7.

2. Propose Clarifications to Sections 6.1.3 and 9.2.7

The Commission proposes to revise sections 6.1.3 and 9.2.7 with the definitions provided in proposed sections 3.1.8, 3.1.9 and 3.1.10 as follows:

- Section 6.1.3: Revise ''Permanently attached retention system components shall not be able to be removed without the use of a tool after initial installation'' by changing ''initial installation'' to ''initial assembly.''

Staff's review shows that making the retention system permanent during product assembly ensures that retention system integrity is maintained, even if the product is reinstalled after initial assembly. Retention systems are a critical component for reducing known product hazards. Removable retention systems are known to lead to entrapment hazards. The additional definitions make clear that retention system should remain attached to the product and should not be compromised after initial assembly and between uninstallation, and reinstallation of the product.

- Section 9.2.7: Revise ''At least one conspicuous component of the product must be labeled with the following entrapment warning'' by changing ''conspicuous component'' to ''installation component.''

[15] PR #22–025, *https://www.cpsc.gov/Recalls/2022/Drive-DeVilbiss-Healthcare-Recalls-Adult-Portable-Bed-Rails-After-Two-Deaths-Entrapment-and-Asphyxiation-Hazards.*

[16] PR #22–040, *https://www.cpsc.gov/Recalls/2022/Compass-Health-Brands-Recalls-Carex-Adult-Portable-Bed-Rails-After-Three-Deaths-Entrapment-and-Asphyxiation-Hazards.*

[17] PR #22–039, *https://www.cpsc.gov/Recalls/2022/Essential-Medical-Supply-Recalls-Adult-Portable-Bed-Rails-Due-to-Entrapment-and-Asphyxia-Hazard-One-Death-Reported.*

[18] PR #22–148, *https://www.cpsc.gov/Newsroom/News-Releases/2022/CPSC-Urges-Consumers-to-Immediately-Stop-Use-of-Mobility-Transfer-Systems-Adult-Portable-Bed-Rails-Due-to-Entrapment-and-Asphyxia-Hazard-Three-Deaths-Reported.*

[19] Tab F of Staff's NPR briefing package provides a redline version in sequential order as the sections appear in ASTM F3186–17.

⚠WARNING – ENTRAPMENT HAZARD

NEVER use product without properly securing it to bed. Incorrect installation can allow product to move away from mattress, bed frame and/or head or foot boards, which can lead to entrapment and death.

•

Staff's review demonstrates that this warning is intended to draw attention to the installation component and to encourage its use. The installation component is commonly located under the mattress during use, and therefore, the warning would not be ''conspicuous'' when in the manufacturer's recommended use position. Requiring the warning to be on a ''conspicuous component'' most likely would not permit the warning to be placed on an installation component. The proposed language would instead draw attention to the installation component. Furthermore, the warning required by section 9.2.6, which also discusses entrapment hazards and keeping the product tight against the mattress, is required to be placed on an installation component rather than on a conspicuous component.

3. Propose Clarifications to Sections 6.5.1 and 6.5.2

The Commission proposes to clarify the following sections of ASTM F3186–17:

• § 6.5.1: Revise ''Any structural components and retention system components of a product covered by this specification that require consumer assembly shall not be able to be misassembled when evaluated to 6.5.2'' to ''Any structural components and retention system components of a product covered by this specification that require consumer assembly or adjustment, or components that may be removed by the consumer without the use of a tool, shall not be able to be misassembled when evaluated to 6.5.2.''

This revision clarifies that disassembly with the use of a tool is not considered as ''misassembly'' under section 6.5.

Section 6.5.2: Revise ''Determining Misassembled Product: A product covered by this specification shall be considered misasssembled if it appears to be functional under any condition and it does not meet the requirements of 6.1–6.4.''

This editorial change corrects the misspelling of ''misasssembled'' to ''misassembled.''

4. Propose New Sections to Address Mattress Variability (Section 6.2.1.1, Section 7.1.3)

Staff's review shows that mattress thickness is a known variable that may cause some APBR product designs to have hazardous entrapment zones. Accordingly, to improve the safety of APBRs, the ASTM F3186–17 requirements should provide additional guidance on what thickness of mattress to use for testing APBR products. The following proposed new sections address this issue:

• Section 6.2.1.1: If the manufacturer does not recommend a specific applicable range of mattress heights or thicknesses, the test personnel shall choose a mattress that provides the most severe condition per test requirement. If the product has adjustable settings, and the manufacturer does not recommend orienting or adjusting features on the product in a specific manner, the testers shall adjust the product to the most severe condition per test requirement.

Defining a range of recommended mattress thicknesses provides consumers with necessary information for safe use of the product. If no mattress thickness is recommended, consumers may incorrectly assume safe use with any mattress thickness. Similarly, products may come with many types of adjustable settings. If appropriate setting recommendations are not provided, consumers may incorrectly assume all settings are safe. This requirement does not supersede misassembly requirements in section 6.5 but is proposed to be applied in addition to those requirements.

• Section 7.1.3: Mattress thickness ranges used for testing may be up to 1.5 in (38 mm) larger or smaller than the range specified by the manufacturer. If the manufacturer does not recommend a particular range of mattress heights, the testers shall choose a mattress that provides the most severe condition per test requirement. NOTE *: Proposed Mattress Type Clarification: The technology and consumer preferences for bedding are highly variable and continuously changing. Therefore, they cannot be reasonably accounted for within this standard. Test facilities and personnel should consider current bedding trends and all types of mattresses that may foreseeably be used with the product when making a test mattress selection.

Because mattress types are constantly changing, the proposed language in sections 6.2.1.1 and 7.1.3 informs manufacturers and testers to be aware of the types and variability of mattresses consumers may be using with these products and test accordingly. Consumers cannot be expected to be able to consistently measure mattress thickness, nor to purchase a new mattress for proper compatibility with a bed rail. Additionally, consumers are likely to follow nominal thickness descriptors of their mattresses which may vary from actual specifications. This additional range proposed for testing in new proposed section 7.1.3 may be up to 1.5 in (38 mm) larger or smaller than the range specified by the manufacturer, will increase safety by accounting for foreseeable reasonable differences between nominal and actual mattress thicknesses.

5. Propose Revisions to Entrapment Test Probe (Section 7.2) To Update References

• Section 7.2: *Entrapment Test Probe*—This section is revised to update references. Currently, ASTM F3186–17 provides that: The test probe shall be as described in the FDA Guidance Document, ''*Hospital Bed System Dimensional and Assessment Guidance to Reduce Entrapment,*'' which can be found at: *http://www.fda.gov/MedicalDeviceRegulationandGuidance/GuidanceDocuments/ucm072662.* The test probe can be independently manufactured or it can be purchased from NST Sales & Customer Service Office, 5154 Enterprise Blvd., Toledo, Ohio 43612, 800–678–7072, *www.nst-usa.com.* video illustrating use of the test probe is available at the NST website (free registration required).

To update outdated references, this section is proposed to be changed to state that the FDA guidance may be found at *www.fda.gov/regulatory-information/search-fda-guidance-documents/hospital-bed-system-dimensional-and-assessment-guidance-reduce-entrapment.* The test probe can be independently manufactured per the dimensional constraints in the guidance document or purchased from Bionix Development Corporation, 5154 Enterprise Blvd., Toledo, OH 43612,

800–551–7096, *https://bionix.com.* Videos illustrating use of the test probe are available at *www.youtube.com/c/BionixLLC/search.*''

6. Propose Revisions to Performance Requirements for Zone 3 Entrapment (Sections 6.3.3, 8.4.5.4, and 6.4.1)

The Commission is proposing revisions to test for Zone 3 entrapment hazards

• Section 6.3.3: Zone 3—Revise ''The highest point on the cylinder of the test probe (see 7.2) shall not pass completely below the horizontal uncompressed plane of the mattress when tested according to 8.4.5.'' Add at the end of the sentence ''. . .when tested in accordance with section 8.4.5, the horizontal centerline on the face of the 4.7 in (120 mm) end of the test probe (see 7.2) shall be above the highest point of the uncompressed mattress.''

• Section 8.4.5.4: Revise ''Turn the cone until the centerline on the face of the 4.7 in (119.38 mm) end is horizontal and let the cone sink into the space by its own weight. (1) If the line on the face of the 4.7 in (120 mm) end of the cone is above the surface of the mattress highest point of the uncompressed mattress, as shown in Figure 4a, the space passes the test. (2) If the line on the face of the 4.7 in (120 mm) end of the cone is at or below the surface of the mattress, the space fails the test.'' Instead of the ''below the surface of the mattress'' insert ''below the highest point of the uncompressed mattress, as shown in Figure 4b.''

• Section 8.4.5.4. Add the following proposed figures (Figure 4a and Figure 4b) for reference for Zone 3 test:

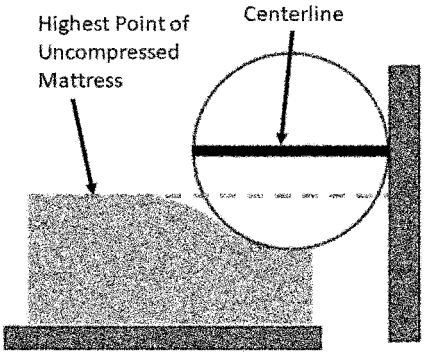


Figure 4a: Zone 3 **Pass** Criteria (Centerline **above** highest point of uncompressed mattress)

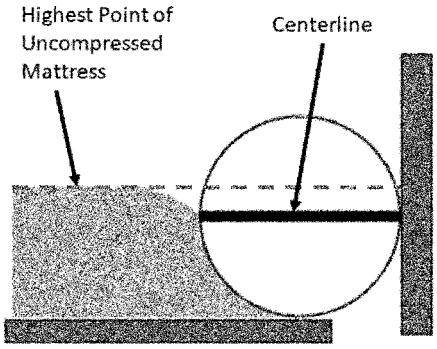


Figure 4b: Zone 3 **Fail** Criteria (Centerline **below** highest point of uncompressed mattress)

CPSC staff's review showed that the Zone 3 entrapment performance requirement in section 6.3.3 is redundant due to the failure criteria described in the associated test method, section 8.4.5.4. To ensure consistency, proposed revisions to these sections more accurately describe the test method for the highest level of safety and are also more consistent with the FDA guidance document referenced in the standard. In addition, the Figures 4a and 4b are proposed to assist testers in visualizing the test criteria.

• Section 6.4.1 Revise the measurements in ''Holes or slots that extend entirely through a wall section of any rigid material less than ¼ in (6.35 mm) thick and admit a ⅝ in (15.9 mm) diameter rod shall also admit a 1 in (25.4 mm) diameter rod. Holes or slots that are between 8 mm and 25 mm and have a wall thickness less than ¼ in (6.35 mm) but are limited in depth to ¼ in (6.35 mm) maximum by another rigid surface shall be permissible (see Fig. 2)'' to the following: ''Holes or slots that extend entirely through a wall section of any rigid material less than 0.375 in (9.53 mm) thick and admit a 0.210 in (5.33 mm) diameter rod shall also admit a 0.375 in (9.53 mm) diameter rod. Holes or slots that are between 0.210 in (5.33 mm) and 0.375 in (9.53 mm) and have a wall thickness less than 0.375 in (9.53 mm) but are limited in depth to 0.375 in (9.53 mm) maximum by another rigid surface shall be permissible (see Fig. 2).''

Staff's review showed that the measurement references in 6.4.1 were not accurate or consistent throughout the section, or the referenced Figure 2. The proposed change to this section fixes those issues and harmonizes the requirements with other established ASTM standards that have similar requirements such as ASTM F2085 (Children's Portable Bed Rails), codified under 16 CFR part 1224.

7. Revise Entrapment Testing Probe Pull Force Application for Entrapment Zones 1 and 2

To make the current language and test method in ASTM F816–17 section 8.4.4 for Zone 2 entrapment testing (*Between the Product Support(s) and the Bed Mattress, When Applicable, Under the Product*) clearer and more repeatable, the proposed rule contains the following changes under section 8.4.4.

• Section 8.4. NOTE 1: Revise ''The tests described in this section are identical to those described in the referenced FDA Guidance Document and in the NSA video'' to ''The tests described in this section are similar to those described in the referenced FDA Guidance Document.''

Although the FDA guidance document is the source of the entrapment test methodologies, there are several differences in the proposed standard and the FDA guidance document. In addition, the NSA video is not available.

• Section 8.4.3.4: Revise ''If the test probe does not pull through freely attach the force gauge and exert a 22.5 lbf (100 N) pulling force to the 2.4 in (60 mm) cylindrical end of the entrapment test tool perpendicular to the plane of the opening in both directions. If the 4.7 in (120 mm) end of the cone does not enter any of the openings, this space passes the test. If the 4.7 in (120 mm) end of the test probe cone does enter and pass through any of the openings, this space fails the test'' to ''If the test probe does not pull through freely attach the force gauge and exert a 22.5 lbf (100 N) pulling force along the axis of the cone, perpendicular to the 2.4 in (60 mm) cylindrical end of the entrapment test tool. If the 4.7 in (120 mm) end of the cone does not enter any

of the openings, this space passes the test. If the 4.7 in (120 mm) end of the test probe cone does enter any of the openings, this space fails the test.''

As explained by CPSC staff, the intent of this test is to determine if both the 2.4 in and 4.7 in portions of the test probe cone can enter or pass through any Zone 1 opening under the required force. This would mean that a body part can be entrapped, and a hazard is present. Furthermore, applying the force perpendicular to the opening may have multiple interpretations and may not always emulate the known hazard of head or limb entrapment. Applying the pull force perpendicular to the 2.4 in cylindrical end of the cone better represents these known hazards when compared to a pull force applied perpendicular to the face of the rail.

- Section 8.4.4.3: Revise ''Insert the 2.4 in (60 mm) end of the cone perpendicular to the opening from the longitudinal centerline of the mattress'' to ''Insert the 2.4 in (60 mm) end of the cone into the opening.'' Slide the cone into the opening until it is in full contact with the product. The mattress shall only be compressed by the weight of the cone.

The intent of this requirement is to address entrapment hazards associated with bed rails and head entrapment in Zone 2 by ensuring that the test probe cannot pass through any openings in the entrapment zone. This criterion is based on the FDA guidance document, which includes a dimension of 120 mm (4.75 in), encompassing the 5th percentile female head breadth. This dimension is represented by the 4.7 in portion of the test probe, and it should be applied in any orientation in which the head may be entrapped. The removed language may have led test personnel to unnecessarily restrict orientations to which the probe is applied.

- Section 8.4.4.4: Revise ''Using the force gauge, exert a 22.5 lbf (100 N) pulling force to the 2.4 in (60 mm) cylindrical end of cone in both directions perpendicular to the rail'' to ''If the test probe does not pull through freely, use the force gauge to exert a 22.5 lbf (100 N) pulling force along the axis of the cone, perpendicular to the 2.4 in (60 mm) cylindrical end of cone.''

The intent of this test is to determine if both the 2.4 in and 4.7 in portions of the test probe cone can enter or pass through the Zone 2 opening under the required force. This would mean that a body part can be entrapped, and a hazard is present. Applying the pull force perpendicular to the 2.4 in cylindrical end of the cone represents these known hazards better when compared to a pull force applied perpendicular to the face of the rail, and also reduces ambiguity.

In addition, to take in account bed rails that have significant overhang, the NPR proposes to add new section 8.4.4.5.

- Section 8.4.4.5: If a horizontal section of the rail greater than 4.7 in (120 mm) exists along the bottom of the rail, that section must also meet the Zone 2 requirements.

Bed rails that have significant overhanging elements that would allow the passage of the head in a manner consistent with identified Zone 2 entrapment hazards were not considered during the development of the APBR testing procedure, but the overhang could potentially result in a similar entrapment. Thus, the requirements and test methods for these types of openings should be consistent with the Zone 2 requirements as reflected in the proposed language.

8. Propose New Note To Clarify Retention Test

Section 8.6.3 of ASTM F3186–17 currently requires that ''a 50 lbf force (222.5 N) force to be applied to the free end of the retention system in the horizontal direction,'' without adequately defining the term ''free end''. By adding a note to the end of section 8.6.3., to explain the location of the ''free end'' will clarify the test method for testers and make it more repeatable. Accordingly, the Commission proposes to add the following note:

- Section 8.6.3 NOTE ***: The ''free end'' is defined as the location on the retention system that is designed to produce a counter force; it may be a single distinct point or a location on a loop.

9. Propose Clarifications to Labels and Warning Requirements.

- Section 9.1.1.3: Revise ''That the product is to be used only with the type and size of mattress and bed, including the range of thickness of mattresses specified by the manufacturer of the product. If beds with head or footboards are allowed, the distance between the head or footboard and the placement of the product shall be indicated to be either <2.4 in (60 mm) or >12.5 in (318 mm)'' to remove ''either <2.4 in (60 mm) or'' from the last sentence.

This proposed change addresses an inconsistency between section 9.1.1.3, which states that products may be installed <2.4 in or >12.5 in away from head or footboards, and section 9.2.6, which states that products must be installed at least 12.5 in from headboards or footboards.

- Section 9.2.5: Revise the warning statement: Each product's retail package and instructions shall include the following warning statements:

⚠WARNING

ENTRAPMENT, STRANGULATION, SUFFOCATION AND FALL HAZARDS

Gaps in and around this product can entrap and kill. People with Alzheimer's disease or dementia, or those who are sedated, confused, or frail, and are at increased risk of entrapment and strangulation. People attempting to climb over this product are at increased risk of injury or death from falls. Always make sure this product is properly secured to bed. If product can move away from bed or mattress, it can lead to entrapment and death.

to delete ", and" after "frail".

This proposed change is a grammatical edit and brings the warning language into alignment with similar language used in section 9.2.6.

- Section 11.1.1.3: Revise ''In addition to contacting the manufacturer directly, consumers should report

problems to the CPSC at is website SaferProducts.gov or call 1–800–638–2772, or to the FDA at 1–800–332–1088'' to change ''is'' to ''its.''

This proposed change is a grammatical edit.

C. Description of Proposed § 1270.3—Prohibited Stockpiling

The CPSC is proposing an anti-stockpiling provision to prevent firms from manufacturing large quantities of non-compliant APBRs before the rule takes effect and seeks comment on this provision. This section would make it a prohibited act for manufacturers and importers to manufacture or import APBRs that do not comply with the requirements of this part in any 1-month period between the date of publication of the final rule and the effective date of the final rule at a rate that is greater than 105 percent of the rate at which they manufactured or imported APBRs during the base period for the manufacturer or importer. The proposed base period for APBRs would be the calendar month with the median manufacturing or import volume within the last 13 months immediately preceding the month of promulgation of a final rule.

D. Proposed Findings—§ 1270.4

The findings required by section 9 of the CPSA are discussed throughout this preamble and set forth in § 1270.4 of the proposed rule.

VI. Preliminary Regulatory Analysis

Pursuant to section 9(c) of the Consumer Product Safety Act, publication of a proposed rule must include a preliminary regulatory analysis containing:

- A preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs.
- A discussion of why a relevant voluntary safety standard would not eliminate or adequately reduce the risk of injury addressed by the proposed rule.
- A description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits and why such alternatives should not be published as a proposed rule.

A. Preliminary Description of Potential Benefits and Costs of the Rule

CPSC's preliminary assessment of the potential benefits and costs show that the annualized present value of the potential societal costs of the proposed rule is $298.11 million. If 92 percent of deaths caused by entrapment are addressed by the proposed rule, there are potential annual benefits of $266.99 million. CPSC also assessed lower efficacy rates of the proposed rule which showed the quantifiable benefits of the proposed rule in the range of $66.75 million (assuming a 25% efficacy rate) to $200.24 million per year (assuming a 75% efficacy rate). The costs associated with the proposed requirements to prevent the hazards associated with APBRs are expected to be $2.01 million per year. On a per product basis, the benefits of the proposed rule are estimated between $110.59 per APBR (25%) and $331.78 per APBR (75%), and the costs are estimated at $3.34 per APBR. All these amounts are in 2021 dollars using a discount rate of 3 percent. Staff's analysis is based is based on incident reports for entrapments, only. Although APBRs may have been involved in other deaths or injuries, such as falls, those incidents are not considered in the benefit cost analysis because there are limited details involving such incidents, and it is unclear whether these incidents would be prevented by the proposed rule.

1. Benefits of the Proposed Rule

The potential benefits and costs of the proposed rule are discussed in Tab G of the Staff's NPR briefing package. The most common hazard pattern among all reported incidents is rail entrapment, accounting for more than 90 percent (284 of 310) of the fatal incidents. For the preliminary regulatory analysis, staff chose the period of 2010 through 2019 to base its rates of fatalities per product because it was the most recent 10-year window where all or nearly all incidents have been reported. Staff identified 158 deaths from entrapment that occurred from 2010 through 2019. This number accounts for 92 percent of observed death incidents; the remaining 8 percent were caused by underlying incidents that may or may not be prevented by the proposed rule. To forecast entrapment deaths into the future, staff used death rates per million APBRs in conjunction with its forecast of APBRs in use throughout the study period. Staff assumed deaths would stay the same as the average rates observed between 2010 to 2019: 31.9 deaths per million APBRs. Staff forecasted APBRs in use using the population breakdown by age of APBR users, adjusted for population demographics and the growth of home healthcare spending.

To estimate the societal costs of entrapment deaths, staff applied the value of statistical life (VSL). VSL is an estimate used in benefit-cost analysis to place a value on reductions in the likelihood of premature deaths. The VSL does not place a value on individual lives, but rather, it represents an extrapolated estimate, based on the rate at which individuals trade money for small changes in mortality risk. This is a ''willingness to pay'' methodology that attempts to measure how much individuals are willing to pay for a small reduction in their own mortality risks, or how much additional compensation they would require to accept slightly higher mortality risks. For this analysis, staff applied estimates of the VSL developed by the U.S. Environmental Protection Agency (EPA). The EPA estimate of the VSL, when adjusted for inflation, is $10.5 million in 2021 dollars. Staff multiplied the VSL by the number of forecasted deaths throughout the study period to calculate societal costs of deaths from entrapment in the absence of the proposed rule.

CPSC staff assumes that the number of firms and APBR models in use will tend to be stable in future years around the values in 2022: 12 firms and 65 models. The market for APBRs is expected to grow at an average rate of 2.01 percent between 2024 and 2053 as a result of an aging U.S. population. Assuming the rates of incidents per million APBRs stays constant, an industry of this size would result in an average of 32 deaths from entrapment per year. At a value of a statistical life (VSL) of $10.5 million (2021 dollars), the annualized present value of the potential costs of the proposed rule is $298.11 million.

Staff did not include injuries in its benefit-cost assessment because for many incidents involving injuries, there is not sufficient information to determine whether they would be prevented by the proposed rule. However, staff has quantified and monetized the injuries in a sensitivity analysis as a potential upper limit to assess the benefits of this proposed rule. The requirements of the proposed rule are expected to address 92 percent of deaths caused by entrapment. However, staff also assessed potential benefits under three scenarios derived from this baseline efficacy, estimating benefits at: 75 percent, 50 percent, and 25 percent of their potential value.

At these rates under varying conservative assumptions (*i.e.,* likely to underestimate the benefits of the rule), CPSC staff estimates the annualized benefits of the proposed rule to be $200.24 million, $133.49 million, and $66.75 million, respectively. As discussed below, staff estimates

annualized costs associated with the proposed requirements to prevent APBR hazards to be approximately $2 million. This results in net quantifiable benefits of $198.23 million, $131.48 million, and $64.74 million on an annualized basis under these various scenarios that assume reduced benefits. Table 10 shows the annualized net benefits under the scenarios.

TABLE 10—NET BENEFITS OF PROPOSED RULE

Annualized net benefits ($M, discounted at 3%)	Portion of benefits achieved over the baseline efficacy rate of redesigned APBRs		
	75%	50%	25%
Benefits	$200.24	$133.49	$66.75
Costs	2.01	2.01	2.01
Net Benefits (Benefits-Costs)	198.23	131.48	64.73
B/C Ratio	99.45	66.30	33.15

Table 11 compares the benefits and costs on a per-unit basis, to add a marginal value perspective.[20] These metrics again show the proposed rule's benefits well exceed costs at each scenario.

TABLE 11—SHOWS THE PER-APBR NET BENEFITS OF THE PROPOSED RULE

Per unit net benefits ($, discounted at 3%)	Portion of benefits achieved over the baseline efficacy rate of redesigned APBRs		
	75%	50%	25%
Benefits	$331.78	$221.19	$110.59
Costs	3.34	3.34	3.34
Net Benefits (Benefits-Costs)	328.45	217.85	107.26
B/C Ratio	99.45	66.30	33.15

2. Costs of the Proposed Rule

Staff's regulatory assessment of the costs of the proposed rule assumed that 100 percent of manufacturers will fully redesign their APBR models to comply with ASTM F3186–17, with modifications. Like the benefits estimation, the time span of the cost analysis covers a 30-year period that starts in 2024, which is the expected year of implementation of the rule. This cost analysis presents all cost estimates in 2021 dollars. This cost analysis also discounts costs in the future and uses a 3 percent discount rate to estimate their present value.[21]

The cost of implementing an APBR fix to address entrapment hazards includes the costs manufacturers incur to redesign existing models and produce new designs to comply with ASTM F3186–17, as well as any additional cost of producing the APBR that is associated with its redesign. Manufacturers incur design costs that include redesigning existing APBR models, and designing APBR models in the future, to comply with the ASTM F3186 as modified. Manufacturers would likely incur expenditures in design labor, design production, design validation, and compliance testing. Staff's review indicates that once existing models have been redesigned with a working solution, new models can adapt the solution at a minimal cost.

Manufacturers can transfer some, or all, of the increased production cost to consumers through price increases. In the first year, staff expects producer manufacturing costs to increase by $5.40 per APBR, of which $4.00 per APBR is expected to be passed on to the consumer in the form of higher prices. At the margins, some producers may exit the market because their increased marginal costs now exceed the increase in market price. Likewise, a fraction of consumers would now probably be excluded from the market because the increased market price exceeds their personal price threshold for purchasing an APBR. Deadweight loss is the measure of the losses faced by marginal producers and consumers who are forced out of the market due to the new requirements of the proposed rule. For this analysis, staff estimated deadweight loss for each year the proposed rule is expected to have an impact on marginal cost and market price. Table 12 summarizes the cost of the proposed rule:

TABLE 12—TOTAL COST OF THE PROPOSED RULE

Costs of proposed rule	Total cost ($M)	Present value ($M)
Cost of Redesigning Existing Models	$2.75	$2.59
Cost of Production of Redesigned APBRs	60.43	35.65

[20] Average undiscounted benefits are calculated by summing the benefits from the proposed rule over the 2024–2053 study period and dividing by the number of APBRs produced during the same period. Average undiscounted costs are similarly calculated. Present Values are calculated by determining the benefits and costs of the proposed rule in the year in which they were incurred and discounting those values by 3 percent for each future year. The present values are summed over the 30-year study period and divided by the number of APBRs produced during this same period.

[21] Discounting future estimates to the present allows staff not only to consider the time value of money, but also the opportunity cost of the investment, which is, the value of the best alternative use of funds.

TABLE 12—TOTAL COST OF THE PROPOSED RULE—Continued

Costs of proposed rule	Total cost ($M)	Present value ($M)
Deadweight Loss	2.07	1.23
Total Costs	65.24	39.46

3. Sensitivity Analysis

A major source of uncertainty is the omission of nonfatal entrapment injuries in the benefits assessment. This may result in a significant under-estimation of the benefits of the proposed rule. In its sensitivity analysis, staff included the benefits of averting all nonfatal injuries reported in NEISS, despite the uncertainty of whether these incidents would be in-scope of this proposed rule. These estimates serve as the theoretical upper bound of benefits from the proposed rule.

Staff used NEISS incidents and the Injury Cost Model (ICM) to extrapolate and generate national estimates for injuries from entrapment treated in EDs and other settings. The ICM calculated that there were 125,121 nonfatal injuries from entrapment in the United States from 2010 to 2019. Of this total, 79,563 were treated in an outpatient setting (*e.g.,* doctor's office, or clinic), 39,149 resulted in ED treatment, and 6,409 resulted in hospital admissions. Over 30 years, staff estimates the societal costs from injuries associated with entrapments, annualized and discounted at 3 percent, to be $195.52 million for doctor's office/clinic, $179.49 million for ED, and $289.64 million for hospital admissions.

To forecast injuries from entrapment into the future, staff used injury rates per million APBRs in conjunction its forecast of APBRs in use throughout the study period. Staff assumed injuries would stay the same as the average rates observed between 2010 to 2019: 1,293.6 hospital admissions per million APBRs in use; 7,902.2 ED admissions per million APBRs in use; and 16,059.7 doctor/clinic visits per million APBRs in use. Staff forecasted APBRs in use based on the population breakdown by age of APBR users, adjusted for population demographics and the growth of home healthcare spending. Staff estimated the societal costs of nonfatal injuries using the ICM. The ICM estimates that the costs (in 2021 dollars) associated with nonfatal entrapment injuries using the quality adjusted life years are: $15,270 for injuries treated at the doctor's office/clinic; $28,849 for injuries treated in the ED; and $280,832 for injuries that result in hospital admission.

Table 13 below displays metrics for the benefits and costs of the proposed rule. The table displays net benefits (difference between benefits and costs) and the benefit-cost ratio (benefits divided by costs) to assess the cost-benefit relationship. The table displays these metrics using annualized benefits for the three scenarios: 75 percent, 50 percent, and 25 percent. These metrics show the proposed rule's benefits well exceed costs in each scenario.

Table 13 displays metrics for benefits, with nonfatal injuries included, and costs of the proposed rule.

TABLE 13—NET BENEFITS OF PROPOSED RULE

Annualized net benefits ($M, discounted at 3%)	Portion of benefits achieved over the baseline efficacy rate of redesigned APBRs		
	75%	50%	25%
Benefits	$698.73	$465.82	$232.91
Costs	2.01	2.01	2.01
Net Benefits (Benefits-Costs)	696.72	463.81	230.90
B/C Ratio	347.04	231.36	115.68

Table 14 compares the benefits, with nonfatal injuries included, to costs on a per-unit basis.

TABLE 14—PER-APBR NET BENEFITS OF PROPOSED RULE

Per-unit net benefits ($, discounted at 3%)	Portion of benefits achieved over the baseline efficacy rate of redesigned APBRs		
	75%	50%	25%
Benefits	$1,157.74	$771.83	$385.91
Costs	3.34	3.34	3.34
Net Benefits (Benefits-Costs)	1,154.41	768.49	382.58
B/C Ratio	347.04	231.36	115.68

B. Voluntary Standard

Based on staff's evaluation of ASTM F3186–17, the Commission preliminarily determines that the voluntary standard is not likely to eliminate or adequately reduce the unreasonable risk of injury associated with entrapments on APBRs. Further, as discussed in section II of this preamble, and Tabs C and D of the staff NPR briefing package, staff collected sample populations of APBR models and tested them, first in 2018 through 2019, and then again in 2021. In each instance, all

APBRs examined by staff failed to comply with one or more substantive requirements of ASTM F3186–17.

CPSC staff also conducted informal interviews with five firms in January and February 2018, to determine if the firms were familiar with the ASTM standard, if they believed their products conformed to the standard, and if they believed other suppliers would conform to the standard. Four firms indicated they were familiar with the standard; one thought that their products already conformed; two indicated some modifications were required to bring their products into compliance; and two expressed uncertainty whether they would put warning labels required by the voluntary standard on their product. One firm expressed concern that if they applied the required warnings to their product and competitors did not, then consumers would believe their products were more hazardous than competing APBRs without warning labels, causing the firm to lose market share.

Accordingly, CPSC testing and informal interviews show that there is no substantial industry compliance with the voluntary standard at this time. Furthermore, substantial future industry compliance appears unlikely because firms have had several years to comply with the voluntary standard and, despite repeated outreach and testing, no APBRs are known to comply with all the requirements in the standard.

C. Alternatives to the Proposed Rule

The Commission considered six alternatives to the proposed rule: (1) take no regulatory action; (2) conduct a recall of APBRs instead of promulgating a final rule; (3) conduct an educational campaign; (4) ban APBRs from the market entirely; (5) require enhanced safety warnings for APBRs; and (6) a later effective date. The Commission preliminarily finds that none of these alternatives would adequately address the hazards associated with APBRs.

1. No Regulatory Action

If the Commission opted to take no regulatory action, the industry foreseeably would continue to fail to address the entrapment hazards associated with APBRs, and consumers would remain at risk. The estimated $298.11 million average annualized societal costs would continue to be incurred by consumers in the form of deaths and injuries. For this reason, the Commission does not find this alternative would address the unreasonable risk of injury associated with APBRs.

2. Conduct Recalls Instead of Promulgating a Final Rule

The Commission could seek to recall APBRs in use that present a substantial product hazard. With this alternative, manufacturers would continue to not comply with the voluntary standard and would not incur any costs to modify or test APBRs to comply with the proposed rule. However, recalls only apply to an individual manufacturers and sellers of APBRs, and do not extend to similar products that fall within the scope of ASTM 3186–17 and present the same hazards. In addition, recalls occur only after consumers have purchased and used such products and may have been killed or injured due to exposure to the hazard. Finally, recalls cannot directly prevent unsafe products from entering the market. Therefore, much of the estimated $298.11 million average annualized societal costs would continue to be incurred by consumers in the form of deaths and injuries. For these reasons, the Commission does not find this alternative would address the unreasonable risk of injury associated with APBRs.

3. Conduct Education Campaigns

The Commission could issue news releases or use other information and marketing techniques to warn consumers about entrapment hazards associated with APBRs, instead of issuing a mandatory rule. Information and marketing campaigns, in conjunction with CPSC recall actions, may reduce the number of injuries and societal costs associated with APBR entrapment hazards. However, education campaigns and recalls are not likely to adequately reduce the risk of injury from the entrapment hazard. As noted above, CPSC has issued recall announcements for APBRs in the past, and these have not adequately addressed the entrapment hazard. Furthermore, recalls and associated education campaigns occur only after consumers have been exposed to the hazard and potentially suffered injury or death due as the result. Therefore, the Commission does not find this alternative would adequately address the unreasonable risk of injury associated with APBRs.

4. Total Ban of APBRs From the Market

The Commission could ban APBRs sold as consumer products. However, in considering this alternative, the Commission must weigh both quantifiable and unquantifiable factors of the utility of APBR use to consumers. APBRs provide benefits to users, including mobility, ease of access to beds, and the potential for at-home care. Considering both the quantifiable and unquantifiable costs and benefits, the net benefit of this alternative is likely less than that of the proposed rule. However, the Commission seeks comments on whether the proposed adoption of the modified ASTM standard sufficiently addresses the hazard and whether a ban is warranted, and if so, what the impact of a ban would be on consumers (*e.g.,* lost consumer utility from not having the product).

5. Enhanced Safety Warnings on APBRs

The Commission could require enhanced safety warnings on APBRs. Warning labels on APBRs have not produced the desired results of reducing entrapment injuries and deaths. Safety warnings that rely on consumers to alter their behavior to avoid the hazard are less effective than designing the hazard out of the product or guarding the consumer from the hazard. Accordingly, the Commission preliminarily finds that warnings alone would not adequately address the unreasonable risk of injury associated with APBRs. Although warnings and instructions have limited effectiveness, the labeling, warning, and instructional literature requirements of ASTM F3186–17 do beneficially address the risk of injuries and deaths associated with APBRs and CPSC proposes that they be adopted with modifications set forth in the proposed rule.

6. Later Effective Date

The Commission could issue the new rule with an introduction time greater than the 30 days recommended in this proposed rule. APBRs that present an unreasonable risk of death or injury from entrapment would continue to enter the marketplace during that time. Delaying the benefits of the rule likely results in higher social costs, in exchange for limited benefits to producers, who would still be required to revise their APBR products. Furthermore, manufacturers of APBRs have long had notice of the requirements of ASTM F3186–17 and, as staff investigation confirms, are familiar with the core requirements of the proposed rule. For this reason, staff does not recommend this alternative.

VII. Initial Regulatory Flexibility Analysis

Whenever an agency publishes an NPR, section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires agencies to prepare an initial regulatory flexibility analysis (IRFA), unless the head of the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. The IRFA, or a summary of it, must be published in the **Federal Register** with the proposed rule. Under section 603(b) of the RFA, each IRFA must address:

(1) a description of why action by the agency is being considered;

(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

The IRFA must also describe any significant alternatives to the proposed rule that would accomplish the stated objectives and that minimize any significant economic impact on small entities. Staff's initial regulatory flexibility analysis is provided in Tab H of Staff's NPR briefing package.

A. Reason for Agency Action

The purpose of the proposed rule is to reduce deaths and injuries resulting from entrapment on APBRs. CPSC staff identified 310 fatal injuries associated with APBR hazards in years 2003 through 2021. Although staff's assessment with ASTM F3186–17 shows that, with modifications, it would adequately reduce the unreasonable risk of injury associated with APBRs, there is no compliance with the voluntary standard. Accordingly, the Commission preliminarily finds that a mandatory rule is reasonably necessary to reduce the unreasonable risk of injury of entrapment hazards from APBRs.

B. Objectives and Legal Basis for the Rule

The Commission proposes this rule to reduce the risk of death and injury associated with APBRs. The proposed rule is promulgated under the authority in sections 7 and 9 of the CPSA.

C. Small Entities to Which the Rule Will Apply

The proposed rule would apply to all manufacturers and importers of APBRs. Staff identified seven U.S. APBR manufacturers that meet the SBA criteria for small businesses. Importers of APBRs could be wholesale or retail distributers. Staff identified one U.S. APBR firm in these categories that could be considered a small business.

D. Compliance, Reporting, and Record-Keeping Requirements of Proposed Rule

The proposed rule would establish a performance requirement for APBRs and test procedures that suppliers would have to meet to sell APBRs in the United States. Specifically, the NPR would require APBRs sold in the United States to comply with the ASTM F3186–17 standard, with the proposed modifications. CPSC expects most APBR manufacturers, including those considered small by SBA standards, would incur costs associated with bringing their APBRs into compliance with the proposed rule, as well as costs related to testing and issuing a General Certificate of Conformity (GCC).

In accordance with section 14 of the CPSA, manufacturers would have to issue a GCC for each APBR model, certifying that the model complies with the proposed rule. According to section 14 of the CPSA, GCCs must be based on a test of each product, or a reasonable testing program; and GCCs must be provided to all distributors or retailers of the product. The manufacturer would have to comply with 16 CFR part 1110 concerning the content of the GCC, retention of the associated records, and all other applicable requirements.

E. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

CPSC has not identified any other Federal rules that duplicate, overlap, or conflict with the proposed rule.

F. Potential Impact on Small Entities

Generally, CPSC considers an impact to be potentially significant if it exceeds 1 percent of firm's gross revenue. Staff identified seven APBR manufacturers that meet SBA size standards for small businesses. Staff applied both the per-model and per-unit costs to each manufacturer's number of models and estimated unit sales in 2021. Staff found that the initial cost to comply with the proposed rule exceeds one percent of reported annual revenue for three of the seven manufacturers identified as small businesses. For these three APBR manufacturers, the economic impact of the proposed rule is expected to be significant. As discussed in Tab G of Staff's NPR Briefing Package, to achieve compliance with the proposed rule's performance requirements, APBR suppliers would incur costs from redesigning, retooling, and testing. Staff estimates this cost to be $42,239 per model in the first year. Staff estimates the additional production cost for labor and material to be $10.01 per unit produced in the first year, of which $7.74 is expected to be passed on to the consumer.

Staff identified one possible importer of APBRs from foreign suppliers that would be considered small businesses based on SBA size standards. Small importers would be adversely impacted by the proposed rule if its foreign supplier withdrew from the U.S. market, rather than incur the cost of compliance. Small importers would also be adversely impacted if foreign manufacturers failed to provide a GCC and the importers had to perform their own testing for compliance. If sales of APBRs are a substantial source of the importer's business, and the importer cannot find an alternative supplier of APBRs, the economic impact on these firms may be significant. However, staff estimates the U.S. APBR market will grow at annual rate of approximately 2.01 percent over the next 20 years. It is unlikely that foreign manufacturers would exit a market growing at this rate. APBR importers also import other medical equipment, devices, and supplies. For these firms, any decline in APBR sales and revenue may be partially or fully offset by increasing sales and revenues of these other products. Small importers would be responsible for issuing a GCC certifying that their APBRs comply with the rule's requirements. However, importers may issue GCCs based upon certifications provided by or testing performed by their suppliers. Based on an estimated $4,532 per model for testing, the impact on small importers whose suppliers provide GCCs is unlikely to be significant.

VIII. Incorporation by Reference

The Commission proposes to incorporate by reference ASTM F3186–17, *Standard Specification for Adult Portable Bed Rails and Related Products.* The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section IV. of this preamble summarizes the major provisions of ASTM F3186–17 that the Commission proposes to incorporate by reference into 16 CFR part 1270. The standard

itself is reasonably available to interested parties. Until the end of the comment period, a read-only copy of ASTM F3186–17 is available for viewing, at no cost, on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F3186–17 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; telephone: (610) 832–9585; *www.astm.org.*

IX. Environmental Considerations

Generally, the Commission's regulations are considered to have little or no potential for affecting the human environment, and environmental assessments and impact statements are not usually required. See 16 CFR 1021.5(a). The proposed rule is not expected to have an adverse impact on the environment and is considered to fall within the ''categorical exclusion'' for the purposes of the National Environmental Policy Act. 16 CFR 1021.5(c).

X. Preemption

Executive Order (E.O.) 12988, Civil Justice Reform (Feb. 5, 1996), directs agencies to specify the preemptive effect of a rule in the regulation. 61 FR 4729 (Feb. 7, 1996). The proposed regulation for APBRs is issued under authority of the CPSA. 15 U.S.C. 2051–2089. Section 26 of the CPSA provides that ''whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal Standard.'' *Id.* 2075(a). Thus, the proposed rule for APBRs, if finalized, would preempt non-identical state or local requirements for APBRs designed to protect against the same risk of injury.

States or political subdivisions of a state may apply for an exemption from preemption regarding a consumer product safety standard, and the Commission may issue a rule granting the exemption if it finds that the state or local standard: (1) provides a significantly higher degree of protection from the risk of injury or illness than the CPSA standard, and (2) does not unduly burden interstate commerce. *Id.* 2075(c).

XI. Paperwork Reduction Act

This proposed rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). 44 U.S.C. 3501–3520. We describe the provisions in this section of the document with an estimate of the annual reporting burden. Our estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

CPSC particularly invites comments on: (1) whether the collection of information is necessary for the proper performance of the CPSC's functions, including whether the information will have practical utility; (2) the accuracy of the CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and (5) estimated burden hours associated with label modification, including any alternative estimates.

Title: Safety Standard for Adult Portable Bed Rails

Description: The proposed rule would require each APBR to comply with ASTM F3186–17, *Standard Specification for Adult Portable Bed Rails and Related Products,* with modifications. Sections 9, 10, and 11 of ASTM F3186–17 contain requirements for labels, warnings and instructional literature.

Description of Respondents: Persons who manufacture or import adult portable bed rails.

Staff estimates the burden of this collection of information as follows in Table 15:

TABLE 15—ESTIMATED ANNUAL REPORTING BURDEN

Burden type	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours	Annual cost
Labeling	12	6	72	8	576	$20.304
Instructional Literature	12	6	72	24	1,728	60,912
Total Burden	.....	.....	.....	.....	2,304	81,216

Our estimate is based on the following. There are 12 known entities supplying APBRs to the U.S. market. On average, each entity supplies six APBR models to the market. All 12 entities are assumed to already use labels on both their products and packaging. However, none of the APBR models tested comply with ASTM F3186–17 labeling and informational requirements. CPSC therefore expects all entities will need to make modifications to their existing labels. The estimated time required to make these modifications is about eight hours per model. Each entity supplies an average of six different APBR models. Therefore, the estimated burden associated with labels is 576 hours (12 entities × 6 models per entity × 8 hours per model = 576 hours). We estimate the hourly compensation for the time required to create and update labels is $35.25 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2022, total compensation for all sales and office workers in goods-producing private industries: *www.bls.gov/ncs/.*) Therefore, the estimated annual cost to industry associated with the labeling requirements is $20,304 ($35.25 per hour × 576 hours). There are no

operating, maintenance, or capital costs associated with the collection.

The proposed rule would also require instructions to be supplied with the product. Under the OMB's regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the ''normal course of their activities'' are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are ''usual and customary.'' APBRs require installation on an existing bed, which implies instructions for proper use, fit, and position on a bed, as well as cleaning are necessary. While many APBR entities already provide some instructional material, CPSC expects all will need to make some modifications to existing material. The estimated time to modify the instructional material is 24 hours per model. Each entity supplies an average of six different APBR models. Therefore, the estimated burden associated with instructional literature is 1,728 hours (12 entities × 6 models per entity × 24 hours per model). We estimate the hourly compensation for the time required to create and update instructional material is $35.25 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2022), total compensation for all sales and office workers in goods-producing private industries: *www.bls.gov/ncs/*). Therefore, the estimated annual cost to industry associated with the instructional material requirements is $60,912 ($35.25 per hour × 1,728 hours). There are no operating, maintenance, or capital costs associated with the collection.

Based on this analysis, the proposed standard for APBRs would impose a burden to industry of 2,304 hours, at an estimated cost of $81,216 annually ($20,304 + $60.912). Existing APBR entities would incur these costs in the first year following the proposed rule's effective date. In subsequent years, costs could be less, depending on the number of new APBR models introduced by existing entities and/or by entities entering the APBR market. As required under the PRA (44 U.S.C. 3507(d)), CPSC has submitted the information collection requirements of this proposed rule to the OMB for review. Interested persons are requested to submit comments regarding information collection by December 9, 2022, to the Office of Information and Regulatory Affairs, OMB as described under the **ADDRESSES** section of this document.

XII. Certification

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). A final rule on APBRs would subject them to this requirement.

XIII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of a final rule. 5 U.S.C. 553(d). Section 9(g)(1) of the CPSA states that a consumer product safety rule shall specify the date such rule is to take effect, and that the effective date must be at least 30 days after promulgation but cannot exceed 180 days from the date a rule is promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding.

If finalized, the Commission proposes an effective date of 30 days after publication of the final rule. ASTM F3186–17 has been in existence since August 2017, and agency staff has conducted outreach efforts to make firms aware of the requirements of the standard. Accordingly, manufacturers already are familiar with ASTM F3186–17 and should be ready and able to comply with the requirements included in the proposed rule. Therefore, the Commission preliminarily finds a 30-day effective date following publication of the rule in the **Federal Register** appropriate to address the risks of APBRs expeditiously. The rule would apply to all APBRs manufactured after the effective date. However, the Commission requests comments on the proposed effective date. The CPSC is proposing an anti-stockpiling provision to prevent firms from manufacturing large quantities of non-compliant APBRs before the rule takes effect and seeks comment on this provision.

XIV. Request for Comments

We invite all interested persons to submit comments on any aspect of the proposed rule. Specifically, the Commission seeks comments on the following:

- Information regarding any analysis and/or tests done on APBRs in relation to the risks of injury or death they present;
- Information regarding any potential costs or benefits of the proposed rule that were not included the foregoing preliminary regulatory analysis;
- Information regarding the number of small businesses impacted by the proposed rule and the magnitude of the impacts of the proposed rule;
- The testing procedures and methods of the proposed rule and whether they sufficiently reduce the risk associated with APBRs, or whether other measures are necessary and information demonstrating how these measures address the identified risks;
- Potential alternatives to APBRs if they are banned, and the impact that a ban on APBRs would have on consumers (*e.g.,* lost consumer utility from not having the product);
- Any qualitative or quantitative evidence concerning the utility that APBRs have for consumers relative to alternative products that might be used as substitutes in the event APBRs are banned; and
- The appropriateness of the 30-day effective date, and a quantification of how a 30-day effective date would affect the benefits and costs of the proposed rule.

XV. Notice of Opportunity for Oral Presentation

Section 9 of the CPSA requires the Commission to provide interested parties ''an opportunity for oral presentation of data, views, or arguments.'' 15 U.S.C. 2058(d)(2). The Commission must keep a transcript of such oral presentations. *Id.* Any person interested in making an oral presentation must contact the Commission, as described under the **DATES** and **ADDRESSES** section of this document.

XVI. Promulgation of a Final Rule

Section 9(d)(1) of the CPSA requires the Commission to promulgate a final consumer product safety rule within 60 days of publishing a proposed rule. 15 U.S.C. 2058(d)(1). Otherwise, the Commission must withdraw the proposed rule if it determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product or is not in the public interest. *Id.* However, the Commission can extend the 60-day period, for good cause shown, if it publishes the reasons for doing so in the **Federal Register.** *Id.*

The Commission finds that there is good cause to extend the 60-day period for this rulemaking. Under both the APA and the CPSA, the Commission must provide an opportunity for interested parties to submit written comments on a proposed rule. 5 U.S.C. 553; 15 U.S.C. 2058(d)(2). The

Commission is providing 60 days for interested parties to submit written comments. A shorter comment period may limit the quality and utility of information CPSC receives in comments, particularly for areas where it seeks data and other detailed information that may take time for commenters to compile. Additionally, the CPSA requires the Commission to provide interested parties with an opportunity to make oral presentations of data, views, or arguments. 15 U.S.C. 2058. This requires time for the Commission to arrange a public meeting for this purpose and provide notice to interested parties in advance of that meeting, if any interested party requests the opportunity to present such comments. After receiving written and oral comments, CPSC staff must have time to review and evaluate those comments.

These factors make it impractical for the Commission to issue a final rule within 60 days of this proposed rule. Moreover, issuing a final rule within 60 days of the NPR may limit commenters' ability to provide useful input on the rule, and CPSC's ability to evaluate and take that information into consideration in developing a final rule. Accordingly, the Commission finds that there is good cause to extend the 60-day period for promulgating the final rule after publication of the proposed rule.

List of Subjects in 16 CFR Part 1270

Administrative practice and procedure, Consumer protection, Incorporation by reference, Adult portable bed rails.

■ For the reasons discussed in this preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations by adding part 1270 to read as follows:

PART 1270—SAFETY STANDARD FOR ADULT PORTABLE BED RAILS

Sec.

Authority: 15 U.S.C. 2056, 15 U.S.C 2058, and 5 U.S.C. 553.

§ 1270.1 Scope, application, and effective date.

This part 1270 establishes a consumer product safety standard for adult portable bed rails manufactured after [DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

§ 1270.2 Requirements for adult portable bed rails.

(a) Except as provided in paragraph (b) of this section, each adult portable bed rail must comply with all applicable provisions of ASTM F3186–17, *Standard Specification for Adult Portable Bed Rails and Related Products,* approved on August 1, 2017. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9585; *www.astm.org.* You may inspect a copy from the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) Comply with the ASTM F3186–17 standard with the following changes:

(1) In addition to complying with section 3.1.7 of ASTM F3186–17, each adult portable bed rail must comply with the following:

(i) *3.1.8 Initial assembly.* The first assembly of the product components after purchase, and prior to installing on the bed.

(ii) *3.1.9 Initial installation.* The first installation of the product onto a bed or mattress.

(iii) *3.1.10 Installation component.* Component(s) of the bed rail that is/are specifically designed to attach the bed and typically located under the mattress when in the manufacturer's recommended use position.

(2) Instead of complying with section 6.1.3 of ASTM F3186–17, comply with the following:

(i) Under section 6.1.3, permanently attached retention system components shall not be able to be removed without the use of a tool after initial assembly.

(ii) [Reserved]

(3) In addition to complying with section 6.2.1 of ASTM F3186–17, comply with the following:

(i) Under section 6.2.1.1, if the manufacturer does not recommend a specific applicable range of mattress heights or thicknesses, the test personnel shall choose a mattress that provides the most severe condition per test requirement. If the product has adjustable settings, and the manufacturer does not recommend orienting or adjusting features on the product in a specific manner, the testers shall adjust the product to the most severe condition per test requirement.

(ii) [Reserved]

(4) Instead of complying with section 6.3.3 of ASTM F3186–17, comply with the following:

(i) *6.3.3. Zone 3.* When tested in accordance with section 8.4.5, the horizontal centerline on the face of the 4.7 in (120 mm) end of the test probe (see 7.2) shall be above the highest point of the uncompressed mattress.

(ii) [Reserved]

(5) Instead of complying with section 6.4.1 of ASTM F3186–17, comply with the following:

(i) Under section 6.4.1, holes or slots that extend entirely through a wall section of any rigid material less than 0.375 in (9.53 mm) thick and admit a 0.210 in (5.33 mm) diameter rod shall also admit a 0.375 in (9.53 mm) diameter rod. Holes or slots that are between 0.210 in (5.33 mm) and 0.375 in (9.53 mm) and have a wall thickness less than 0.375 in (9.53 mm) but are limited in depth to 0.375 in (9.53 mm) maximum by another rigid surface shall be permissible (see Opening Example in Figure 2 of ASTM F3186–17).

(ii) [Reserved]

(6) Instead of complying with section 6.5.1 of ASTM F3186–17, comply with the following:

(i) Under section 6.5.1, any structural components and retention system components of a product covered by this specification that require consumer assembly or adjustment, or components that may be removed by the consumer without the use of a tool, shall not be able to be misassembled when evaluated to 6.5.2.

(ii) [Reserved]

(7) Instead of complying with section 6.5.2 of ASTM F3186–17, comply with the following:

(i) *6.5.2 Determining misassembled product.* A product covered by this specification shall be considered misassembled if it appears to be functional under any condition and it does not meet the requirements of sections 6.1–6.4.

(ii) [Reserved]

(8) In addition to complying with section 7.1 of ASTM F3186–17, comply with the following:

(i) Under section 7.1.3, mattress thickness ranges used for testing may be up to 1.5 in (38 mm) larger or smaller than the range specified by the manufacturer. If the manufacturer does not recommend a particular range of mattress heights, the testers shall choose

a mattress that provides the most severe condition per test requirement.

Note 1 to paragraph (b)(8)(i): The technology and consumer preferences for bedding are highly variable and continuously changing. Therefore, they cannot be reasonably accounted for within this standard. Test facilities and personnel should consider current bedding trends and all types of mattresses that may foreseeably be used with the product when making a test mattress selection.

(ii) [Reserved]

(9) In addition to complying with section 7.2 of ASTM F3186–17, comply with the following:

(i) *7.2. Entrapment test probe.* The test probe shall be as described in the FDA Guidance Document, ''*Hospital Bed System Dimensional and Assessment Guidance to Reduce Entrapment,*'' which can be found at: *www.fda.gov/regulatory-information/search-fda-guidance-documents/hospital-bed-system-dimensional-and-assessment-guidance-reduce-entrapment.* The test probe can be independently manufactured per the dimensional constraints in the guidance document or purchased from Bionix, 5154 Enterprise Blvd., Toledo, OH 43612, 800–551–7096, *www.bionix.com.* Videos illustrating use of the test probe are available at: *www.youtube.com/c/BionixLLC/search.*

(ii) [Reserved]

(10) Instead of complying with Note 1 in section 8.4 of ASTM F3186–17, comply with the following:

Note 1 to paragraph (b)(10)(i): The tests described in this section are similar to those described in the referenced FDA Guidance Document.

(11) Instead of complying with section 8.4.3.4 of ASTM F3186–17, comply with the following:

(i) Under section 8.4.3.4, if the test probe does not pull through, freely attach the force gauge and exert a 22.5 lbf (100 N) pulling force along the axis of the cone, perpendicular to the 2.4 in (60 mm) cylindrical end of the entrapment test tool. If the 4.7 in (120 mm) end of the cone does not enter any of the openings, this space passes the test. If the 4.7 in (120 mm) end of the test probe cone does enter any of the openings, this space fails the test.

(ii) [Reserved]

(12) Instead of complying with section 8.4.4.3 of ASTM F3186–17, comply with the following:

(i) Under section 8.4.4.3, insert the 2.4 in (60 mm) end of the cone perpendicular into the opening. Slide the cone into the opening until it is in full contact with the product. The mattress shall only be compressed by the weight of the cone.

(ii) [Reserved]

(13) Instead of complying with section 8.4.4.4 of ASTM F3186–17, comply with the following:

(i) Under section 8.4.4.4, if the test probe does not pull through freely use the force gauge to exert a 22.5 lbf (100 N) pulling force along the axis of the cone, perpendicular to the 2.4 in (60 mm) cylindrical end of cone.

(ii) Under section 8.4.4.5, if a horizontal section of the rail greater than 4.7 in exists along the bottom of the rail, that section must also meet the Zone 2 requirements.

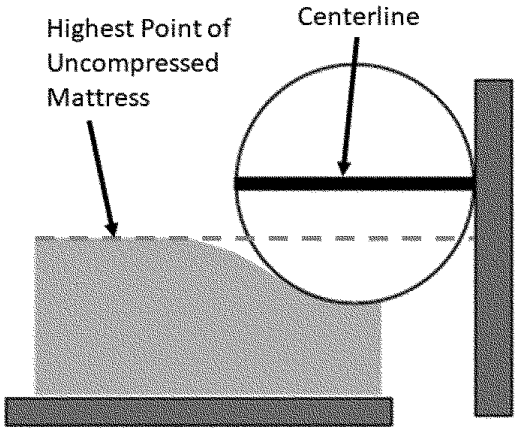
(14) Instead of complying with section 8.4.5.4 of ASTM F3186–17, comply with the following:

(i) Under section 8.4.5.4, turn the cone until the line on the face of the 4.7 in (120 mm) end is horizontal and let the cone sink into the space by its own weight.

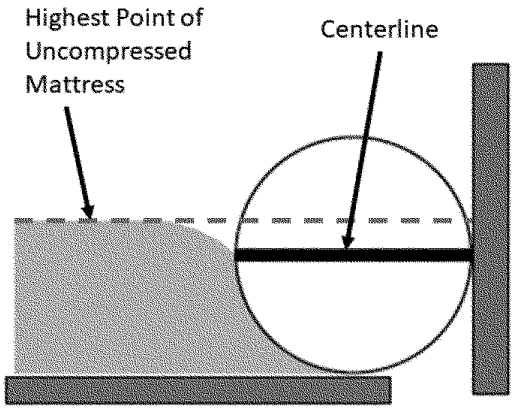
(A) If the line on the face of the 4.7 in (120 mm) end of the cone is above the highest point of the uncompressed mattress, as shown in Figure 1 to paragraph (b)(14) of this section, the space passes the test.

(B) If the line on the face of the 4.7 in (120 mm) end of the cone is at or below the highest point of the uncompressed mattress, as shown in Figure 1 to paragraph (b)(14) of this section, the space fails the test.

Figure 1 to paragraph (b)(14) of this section: Zone 3 test: (a) Pass, (b) Fail



a: Zone 3 **Pass** Criteria (Centerline **above** highest point of uncompressed mattress)



b: Zone 3 **Fail** Criteria (Centerline **below** highest point of uncompressed mattress)

(ii) [Reserved]

(15) In addition to complying with section 8.6.3 of ASTM F3186–17, define ''free end'' in a note as follows:

Note 1 to Paragraph (b)(15)(i): The ''free end'' is defined as the location on the retention system that is designed to produce a counter force; it may be a single distinct point or a location on a loop.

(16) Instead of complying with section 9.1.1.3 of ASTM F3186–17, comply with the following:

(i) Under section 9.1.1.3, that the product is to be used only with the type and size of mattress and bed, including the range of thickness of mattresses, specified by the manufacturer of the product. If beds with head or footboards

are allowed, the distance between the head or footboard and the placement of the product shall be indicated to be >12.5 in (318 mm).

(ii) [Reserved]

(17) Instead of complying with section 9.2.5 of ASTM F3186–17, comply with the following:

(i) Under section 9.2.5, each product's retail package and instructions shall include the warning statements in Figure 2 to paragraph (b)(17)(i) of this section.

Figure 2 to paragraph (b)(17)(i): Warning Statements for Product Retail Package and Instructions

⚠WARNING

ENTRAPMENT, STRANGULATION, SUFFOCATION AND FALL HAZARDS

Gaps in and around this product can entrap and kill. People with Alzheimer's disease or dementia, or those who are sedated, confused, or frail are at increased risk of entrapment and strangulation. People attempting to climb over this product are at increased risk of injury or death from falls. Always make sure this product is properly secured to bed. If product can move away from bed or mattress, it can lead to entrapment and death.

(ii) [Reserved]

(18) Instead of complying with section 9.2.7 of ASTM F3186–17, comply with the following:

(i) Under section 9.2.7, at least one installation component of the product must be labeled with the entrapment warning in Figure 3 to paragraph (b)(18)(i).

Figure 3 to paragraph (b)(18)(i): Entrapment Warning

⚠WARNING – ENTRAPMENT HAZARD

NEVER use product without properly securing it to bed. Incorrect installation can allow product to move away from mattress, bed frame and/or head or foot boards, which can lead to entrapment and death.

(ii) [Reserved]

(19) Instead of complying with section 11.1.1.3 of ASTM F3186–17, comply with the following:

(i) Under section 11.1.1.3, in addition to contacting the manufacturer directly, consumers should report problems to the CPSC at its website *SaferProducts.gov* or call 1–800–638–2772, or to the FDA at 1–800–332–1088.

(ii) [Reserved]

§ 1270.3 Prohibited stockpiling.

(a) *Prohibited acts.* Manufacturers and importers of adult portable bed rails (APBRs) shall not manufacture or import APBRs that do not comply with the requirements of this part in any 1-month period between [DATE OF PUBLICATION OF FINAL RULE] and [EFFECTIVE DATE OF FINAL RULE] at a rate that is greater than 105 percent of the rate at which they manufactured or imported APBRs during the base period for the manufacturer or importer.

(b) *Base period.* The base period for APBRs is the calendar month with the median manufacturing or import volume within the last 13 months immediately preceding the month of promulgation of the final rule.

§ 1270.4 Findings.

(a) *General.* The Consumer Product Safety Act (CPSA) requires the Commission to make certain findings when issuing a consumer product safety standard. 15 U.S.C. 2058(f). This section discusses preliminary support for those findings.

(b) *Degree and Nature of the Risk of Injury.* Between January 2003 and December 2021, the Consumer Product Safety Risk Management System (CPSRMS) injury cases showed there were 332 incident reports concerning adult portable bed rails (APBR). Of these, 310 were reports of fatalities, and 22 were nonfatal. Rail entrapment is the most prevalent hazard pattern among the incidents, accounting for more than 90 percent of all fatal incidents. There were 284 fatal incidents related to rail entrapment. Falls were the second most common hazard pattern in the incident data, accounting for 25 incidents (8 percent). There were 23 fatalities from falls. Most of the incidents were identified from death certificates, medical examiner reports, or coroner reports. Because death certificate data often have a lag time of around two to three years from the date of reporting to CPSC, data collection is ongoing and incidents for 2020, 2021, and 2022 are likely to increase.

(c) *Number of Consumer Products Subject to the Rule.* An estimated 12 firms supply 65 distinct APBR models. In 2021, the number of APBRs sold was approximately 180,000 units.

(d) *Need of the Public for the Products and Probable Effect on Utility, Cost, and Availability of the Product.* (1) APBRs are installed or used alongside a bed by consumers to: reduce the risk of falling from the bed; assist the consumer in repositioning in the bed; or assist the consumer in transitioning into or out of the bed. The market for APBRs is expected to grow at an average rate of 2.01 percent between 2024 and 2053 as a result of an aging U.S. population seeking to avoid institutional medical care. Without a mandatory standard, assuming the rates of incidents, per million APBRs, stay constant, this growth in the industry would lead to an average of 32 entrapment deaths per year.

(2) The cost of compliance to address entrapment hazards includes the costs manufacturers incur to redesign existing models and produce new designs to comply with the mandatory standard, as well as the cost of producing the redesigned APBR. Manufacturers would

likely incur expenditures in design labor, design production, design validation, and compliance testing. Manufacturers would also be required to upgrade all new APBR designs. CPSC estimates these costs to be $42,239 per model in the first year. Once existing models have been redesigned with a working solution, however, new models can adapt at a minimal cost. Manufacturers can transfer some, or all, of the increased production cost to consumers through price increases. In the first year, producer manufacturing costs are expected to increase by $5.40 per APBR, of which $4.00 per APBR is expected to be passed on to the consumer in the form of higher prices. At the margins, some producers may exit the market because their increased marginal costs now exceed the increase in market price. Likewise, a very small fraction of consumers would now probably be excluded from the market because the increased market price exceeds their personal price threshold for purchasing an APBR.

(e) *Any Means to Achieve the Objective of the Proposed Rule, While Minimizing Adverse Effects on Competition and Manufacturing.* (1) The proposed requirement of the rule achieves the objective of reducing entrapment hazards on APBRs while minimizing the effect on competition and manufacturing. Because the proposed rule is based on an existing voluntary standard, and because of CPSC's outreach efforts, APBR manufacturers are generally aware of the requirements. The proposed rule would apply to all manufacturers and importers of APBRs. Manufacturers can transfer some, or all, of the increased production cost to consumers through price increases.

(2) The Commission considered alternatives to the proposed rule to minimize impacts on competition and manufacturing including:

(i) Take no regulatory action;

(ii) Conduct a recall of APBRs instead of promulgating a final rule;

(iii) Conduct an educational campaign;

(iv) Require enhanced safety warnings; and

(v) Longer effective date.

(3) However, the Commission determines preliminarily that none of these alternatives would adequately reduce the risk of deaths and injuries associated with APBR entrapment that the proposed rule addresses.

(f) *Unreasonable Risk.* Incident data show 284 fatal incidents related to rail entrapment. This hazard pattern is the most prevalent among the APBR incidents, accounting for more than 90 percent of all fatal incidents. There were also 23 fatalities related to falls. The incident data show that these incidents continue to occur and are likely to increase because APBR manufacturers do not comply with the voluntary standard and the market for APBRs is forecast to grow. The proposed mandatory standard would establish performance requirements to address the risk of entrapments associated with APBRs. Given the fatal and serious injuries associated with entrapments on APBRs, the Commission preliminarily finds that this rule is necessary to address the unreasonable risk of injury associated with APBR entrapments.

(g) *Public Interest.* The proposed rule is intended to address an unreasonable risk of entrapments associated with APBRs. Adherence to the requirements of the proposed rule would reduce deaths and injuries from APBR entrapment incidents; thus, the rule is in the public interest.

(h) *Voluntary Standards.* Under section 9(f)(3)(D) of the CPSA, if a voluntary standard addressing the risk of injury has been adopted and implemented, then the Commission must find that: the voluntary standard is not likely to eliminate or adequately reduce the risk of injury, or substantial compliance with the voluntary standard is unlikely.

(1) The Commission preliminarily determines that the voluntary standard is not likely to eliminate or adequately reduce the unreasonable risk of injury associated with entrapments on APBRs. Accordingly, the Commission is proposing to adopt the voluntary standard with specified modifications necessary to improve safety and adequately reduce the unreasonable risk of injury associated with entrapment on APBRs. Entrapment is the most prevalent hazard pattern among the deaths and injuries associated with APBRs. The entrapment test methods specified in the voluntary standard require products to be tested to assess the potential for entrapment in four different zones. These zones were identified by the FDA in its 2006 guidance document, Hospital Bed System Dimensional and Assessment Guidance to Reduce Entrapment (FDA, 2006) and used in the voluntary standard, as potential areas of entrapment for APBRs. The FDA's guidance is based on recommendations from the Hospital Bed Safety Workgroup (HBSW), which was formed in 1999 to address reports of patient entrapment. The voluntary standard specifies the FDA probe to test entrapment zones. The probe design is based on the anthropometric dimensions of key body parts, including the head, neck, and chest of at-risk adults. The four entrapment zones required to be tested are:

(i) Within the product;

(ii) Between rail support(s) and the bed mattress, when applicable, under the product;

(iii) Between the product and the mattress; and

(iv) Between the underside of the end of the product and the mattress.

(2) Most of the reported entrapment fatalities involved one of the four zones listed. In 214 out of 284 fatal incidents, the entrapment location was identified and all but six of these cases occurred in one of the four zones of entrapment tested in ASTM F3186–17. Based on this analysis, it is likely that most of the 70 incidents for which there was insufficient information to identify the location of the entrapment also involved one of these four zones.

(3) The Commission preliminarily determines that modifications to the voluntary standard are needed to improve safety. Such modifications include: provide additional definitions for product assembly and installation to ensure their consistent and differentiated use throughout the standard; add recommendations for manufacturers to take into account the range of mattress thicknesses to ensure safe use of the product by the consumer and provide testers with additional guidance for selecting the mattress thickness during the test setup; address inconsistencies with stated dimensions to ensure consistent dimensional tolerances; provide additional clarity for Zone 1 and 2 test setup and methods; provide additional guidance for identifying potential Zone 2 openings; update the requirements for Zone 3 testing consistency; and correct grammatical errors.

(4) The Commission preliminarily determines that substantial compliance with the voluntary standard is unlikely. CPSC conducted two rounds of market compliance testing to ASTM F3186–17: the first round in 2018 and 2019, the second round in 2021. In both rounds of market compliance testing, no APBRs met all requirements of ASTM F3186–17. All products failed at least one critical mechanical requirement, such as retention strap performance, structural integrity, and entrapment and all products failed the labeling, warning, and instructional requirements.

(i) *Reasonable Relationship of Benefits to Costs.* (1) The benefits expected from the proposed rule bear a reasonable relationship to its cost. The proposed rule is intended to reduce the entrapment hazards associated with

APBRs, and thereby reduce the societal costs of the resulting injuries and deaths. CPSC assumes that the number of firms and APBR models in use will tend to be stable in future years around the values in 2022:12 firms and 65 models. The market for APBRs is expected to grow at an average rate of 2.01 percent between 2024 and 2053 as a result of an aging U.S. population. Assuming the rates of incidents per million APBRs stays constant, an industry of this size would result in an average of 32 deaths from entrapment per year. At a value of a statistical life (VSL) of $10.5 million (2021 dollars), the annualized present value of the potential societal costs of the proposed rule therefore is $298.11 million.

(2) The requirements of the proposed rule, with modifications, are expected to address 92 percent of deaths caused by entrapment and produce estimated benefits of $266.99 million. Benefits were assessed under three more conservative scenarios derived from this baseline efficacy, estimating benefits at: 75 percent, 50 percent, and 25 percent of their potential value. Even under the most conservative assumption that only one quarter, or 25 percent of the potential benefits are achieved, the net benefits greatly exceed the costs of the rule. The annualized benefits of the proposed rule are estimated as follows: at 75 percent—$200.24 million, 50 percent-$133.49 million, and 25 percent-$66.75 million, respectively. The estimated annualized costs associated with the proposed requirements to prevent APBR hazards is $2.01 million. This results in net quantifiable net benefits of $198.23 million, $131.48 million, and $64.74 million on an annualized basis. On a per product basis, the benefits of the proposed rule are estimated between $331.78 per APBR (75%), $221.19 (50%), and $110.59 per APBR (25%), and the costs are $3.34 per APBR. All these amounts are in 2021 dollars using a discount rate of 3 percent.

(3) Injuries from entrapment and other hazards on APBRs are not included in the benefit-cost assessment because for many incidents involving injuries, there is not sufficient information to determine whether they would fall under the scope of this proposed rule. However, the injuries are quantified in a sensitivity analysis as a potential upper limit to assess the benefits of this proposed rule. The sensitivity analysis used NEISS incidents and the Injury Cost Model (ICM) to extrapolate and generate national estimates for injuries from entrapment treated in an ED or other settings. The ICM calculated that the aggregate number of nonfatal injuries in the United States from entrapment from 2010 to 2019 was 125,121. Staff estimated that from the total of these injuries, 79,563 were treated in an outpatient setting (*e.g.,* doctor's office or clinic), 39,149 resulted in ED treatment, and 6,409 resulted in hospital admissions.

(j) *Least-Burdensome Requirement that Would Adequately Reduce the Risk of Injury.* The Commission considered six alternatives to the proposed rule including:

(i) Take no regulatory action;

(ii) Conduct a recall of APBRs instead of promulgating a final rule;

(iii) Conduct an educational campaign;

(iv) Ban APBRs from the market entirely;

(v) Require enhanced safety warnings; and

(vi) Longer effective date.

(4) Although most of these alternatives may be a less burdensome alternative to the proposed rule, the Commission determines preliminarily that none of the less burdensome alternatives would adequately reduce the risk of deaths and injuries associated with APBRs that is addressed in the proposed rule.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–22692 Filed 11–8–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–100719–21]

RIN 1545–BQ26

User Fees Relating to Enrolled Actuaries; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains a correction to a notice of proposed rulemaking and notice of public hearing (REG–100719–21) published in the **Federal Register** on October 5, 2022. The notice of proposed rulemaking contains proposed amendments to the regulations relating to user fees for enrolled actuaries.

DATES: Written or electronic comments are being accepted and must be received by December 19, 2022. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for January 9, 2023, at 10:00 a.m. EST must be received by December 19, 2022.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–100719–21) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish any comment to the public docket for public availability. Send paper submissions to: CC:PA:LPD:PR (REG–100719–21), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulation, Carolyn M. Lee at (202) 317–6845; concerning cost methodology, Michael A. Weber at (202) 808–9738; and concerning submission of comments, the hearing, and the access code to attend the hearing by telephone, Regina Johnson, 202–317–6901 (not toll-free numbers) or *publichearings@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations and notice of public hearing subject to this correction are under section 9701 of Title 31 of the United States Code.

Correction of Publication

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG–100719–21) that is the subject of FR Doc. 2022–21458, published on October 5, 2022 (87 FR 60357), is corrected to read as follows:

1. On page 60358, in the first column, under the caption **DATES**, the paragraph is corrected to read, ''Electronic or written comments must be received by December 19, 2022. The public hearing will be held by teleconference on January 9, 2023, at 10:00 a.m. EST. Requests to speak and outlines of topics to be discussed at the public hearing must be received by December 19, 2022. The public hearing will be canceled if no outlines are received by December 19, 2022. Requests to attend the public hearing must be received by 5:00 p.m. EST on January 5, 2023. The telephonic hearing will be made accessible to people with disabilities. Requests for

special assistance during the telephonic hearing must be received by January 4, 2023.''

2. On page 60360, in the first column, the fifth and sixth lines from the top of the column, the language ''*https://files.fasab.gov/pdffiles/2021_%20FASAB_%20Handbook.pdf*'' is corrected to read ''*https://files.fasab.gov/pdffiles/2022_%20FASAB_%20Handbook.pdf*''.

3. On page 60360, in the third column, the last line in the table in the second paragraph showing the estimated costs for direct labor and benefits by year, the language''1,673,217'' is corrected to read ''$1,673,217.''

4. On page 60361, in the first column, the third line in the table preceding the first paragraph, the language ''2,674,248'' is corrected to read ''$2,674,248.''

5. On page 60361, in the third column, the fifth and sixth lines from the top of the last paragraph, the language ''such requirements that'' is corrected to read ''the requirements and''.

6. On page 60362, in the second column, under the caption Comments and Public Hearing, in the second full paragraph, the language ''December 16, 2022'' is corrected to read ''January 9, 2023;'' and the language ''December 5, 2022'' is corrected to read ''December 19, 2022.''

Oluwafunmilayo A. Taylor,

Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2022–24452 Filed 11–8–22; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 6, 8, 10, and 11

[Docket No. TTB–2022–0011; Notice No. 216]

RIN 1513–AC92

Consideration of Updates to Trade Practice Regulations

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is seeking public comment on TTB's trade practice regulations related to the Federal Alcohol Administration Act's exclusive outlet, tied house, commercial bribery, and consignment sales prohibitions. President Biden's Executive Order 14036 (''Promoting Competition in the American Economy''), the Department of the Treasury's related February 2022 report (''Competition in the Markets for Beer, Wine, and Spirits''), and public comments related to that report have raised questions about whether these regulations could be improved. To assist the agency in formulating potential proposals to amend the regulations, TTB invites comments on the issues described in this document.

DATES: Comments must be received on or before March 9, 2023.

ADDRESSES: You may electronically submit comments to TTB on this advance notice of proposed rulemaking, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB–2022–0011 as posted at *https://www.regulations.gov.* A direct link to that docket is available on the TTB website at *https://www.ttb.gov/laws-and-regulations/all-rulemaking* under Notice No. 216. Alternatively, you may submit comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested regarding this advance notice of proposed rulemaking and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Christopher Forster-Smith, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–1039 ext. 150.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105 of the Federal Alcohol Administration Act (FAA Act) prohibits producers, wholesalers, and importers of distilled spirits, wine, or malt beverages (*i.e.,* industry members) from engaging in certain practices (collectively referred to as ''trade practices'') that threaten the independence of retailers and/or give the industry members an unfair advantage over their competitors. See 27 U.S.C. 205. Apart from labeling and advertising (27 U.S.C. 205(e) & (f)), which are outside the scope of this document, section 105's prohibited trade practices are:

A. *Exclusive outlet.* It is unlawful for any industry member to require, by agreement or otherwise, that any retailer purchase alcohol beverages from the industry member to the exclusion, in whole or in part, of alcohol beverages sold or offered for sale by other persons. See 27 U.S.C. 205(a).

B. *Tied house.* It is unlawful for any industry member to induce any retailer to purchase alcohol beverages from the industry member to the exclusion, in whole or in part, of alcohol beverages sold or offered for sale by others, through any of the following means: (1) by acquiring or holding any interest in any license with respect to the premises of the retailer; (2) by acquiring any interest in the real or personal property owned, occupied, or used by the retailer in the conduct of its business; (3) by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to exceptions prescribed by regulations; (4) by paying or crediting the retailer for any advertising, display, or distribution service; (5) by guaranteeing any loan or the repayment of any financial obligation of the retailer; (6) by extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as prescribed by regulations; or (7) by requiring the retailer to take and dispose of a certain quota of any alcohol beverages. See 27 U.S.C. 205(b).

C. *Commercial bribery.* It is unlawful for any industry member to induce any retailer or wholesaler to purchase alcohol beverages from the industry member to the exclusion, in whole or in part, of alcohol beverages sold or offered for sale by others, though the following means: (1) by commercial bribery; or (2) by offering or giving any bonus, premium, or compensation to any officer, employee, or representative of the retailer or wholesaler. See 27 U.S.C. 205(c).

D. *Consignment sales.* It is unlawful for any industry member to sell, offer for sale, or contract to sell alcohol beverages to any retailer or wholesaler, or for any retailer or wholesaler to purchase, offer to purchase, or contract to purchase any alcohol beverages on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person, from the retailer or wholesaler, of other distilled

spirits, wine, or malt beverages. See 27 U.S.C. 205(d).

TTB administers these FAA Act provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

TTB has promulgated regulations at 27 CFR part 6 (''Tied-House'') specifying the practices that are means to induce under section 105(b) of the FAA Act, criteria for determining whether a practice is a violation of section 105(b) of the FAA Act, and exceptions to section 105(b)(3) of the FAA Act. TTB has promulgated regulations at 27 CFR part 8 (''Exclusive Outlets'') specifying arrangements which are exclusive outlets under section 105(a) of the FAA Act and criteria for determining whether a practice is a violation of section 105(a) of the FAA Act. TTB has promulgated regulations at 27 CFR part 10 (''Commercial Bribery'') specifying practices which may result in violations of section 105(c) of the FAA Act and criteria for determining whether a practice is a violation of section 105(c) of the FAA Act. TTB has promulgated regulations at 27 CFR part 11 (''Consignment Sales'') specifying arrangements which are consignment sales under section 105(d) of the FAA Act and containing guidelines concerning returns or exchanges of distilled spirits, wine and malt beverages from a retailer or wholesaler.

Executive Order 14036

On July 9, 2021, President Biden issued an Executive Order titled ''Promoting Competition in the American Economy.'' See E.O. 14036, 86 FR 36987 (July 14, 2021). Section 5(j) directed the Secretary, in consultation with the Attorney General and the Chair of the Federal Trade Commission (FTC), to submit a report within 120 days ''assessing the current market structure and conditions of competition [for beer, wine, and spirits], including an assessment of any threats to competition and barriers to new entrants[.]'' The Order provided that the report should address unlawful trade practices that hinder smaller and independent businesses or new entrants from distributing their products; patterns of consolidation in production, distribution, or retail markets; and ''any unnecessary trade practice regulations of matters such as bottle sizes, permitting, or labeling that may unnecessarily inhibit competition[.]''

Further, section 5(k) of the Order directed the Secretary, through the TTB Administrator, to consider within 240 days: (1) Initiating a rulemaking to update TTB's trade practice regulations; (2) revising or rescinding any regulations that ''unnecessarily inhibit competition;'' and (3) ''reducing any barriers that impede market access for smaller and independent brewers, winemakers, and distilleries.''

Treasury Request for Information

On July 28, 2021, the Department of the Treasury (Treasury) issued a Request for Information (RFI) soliciting input from the public and industry regarding the current market structure and conditions of competition in the American markets for beer, wine, and spirits, including an assessment of any threats to competition and barriers to new entrants. See Notice No. 204, 86 FR 40678. Treasury received 827 public comments in response to this RFI (RFI Comments), including numerous comments addressing the exclusive outlet, tied house, commercial bribery, and consignment sales prohibitions.

Treasury Report on Competition in the Markets for Beer, Wine, and Spirits

On February 9, 2022, Treasury, in consultation with the U.S. Department of Justice and the Federal Trade Commission, released a report titled ''Competition in the Markets for Beer, Wine, and Spirits'' (Report). The Report analyzes the markets for beer, wine, and spirits and, while finding significant growth over the last several decades in the number of small and ''craft'' producers of beer, wine, and spirits, the Report also finds significant concentration in certain markets. In addition, the Report analyzes the burden that complex regulations place on small businesses and new market entrants. To help address the competitive challenges in the beer, wine, and spirits marketplace, the Report identifies several recommendations, including evaluating trade practice enforcement policies, and reform of post-Prohibition era regulations that hinder small firms and new entrants from accessing the marketplace. The Report also recommends that TTB consider rulemaking to update its trade practice regulations under the FAA Act with an eye to giving a green light to practices that are essentially harmless and inherently procompetitive.

Comments Requested

TTB has not revised the trade practice regulations in over 20 years and recognizes that the regulations may not take into account current marketplace realities. Accordingly, in this advance notice of proposed rulemaking, TTB invites comments on updating the trade practice regulations listed in the Background section above (*i.e.,* 27 CFR parts 6, 8, 10 and 11). To assist TTB in determining whether to proceed with developing specific regulatory proposals, TTB particularly invites comments on the following:

General Questions

1. *Update trade practice regulations.* How might TTB update the trade practice regulations to clarify and/or modernize the categories of conduct that may result in exclusion or threaten retailer independence? How might TTB update the trade practice regulations to clarify and/or modernize any exceptions to those categories? Is there exclusionary conduct the current trade practice regulations overlook?

2. *Trade practice regulations and competition.* How might TTB update the trade practice regulations to authorize more practices that would not result in exclusion or threaten retailer independence, including any limits on those practices? How might TTB update the trade practice regulations to focus more on practices that have greater effect on the market?

3. *Digital marketplace.* How might TTB update the trade practice regulations to take into account current marketplace realities, especially in light of the rise of digital marketing strategies (*e.g.,* digital coupons, instant rebate coupons, and virtual retail shelf space in digital retail storefronts where products may be purchased online)?

Specific Topics of Interest

1. *Category management.* The Report and the RFI Comments both raised concerns about the threat that category management activities pose to retailer independence. One specific concern is that industry members, acting as category managers or captains for retailers, are either making the buying decisions for retailers or strongly influencing the retailers' buying decisions in a way that threatens retailer independence. How might TTB update the trade practice regulations to more thoroughly define and address category management activities to ensure that those activities do not lead to exclusion?

2. *Shelf plans.* Should TTB remove the exception which allows industry members to provide retailers with shelf plans and shelf schematics? See 27 CFR 6.99(b). Is providing shelf plans and shelf schematics a practice that places or has the potential to place retailer independence at risk? What additional

services, whether furnished in conjunction with providing shelf plans or schematics or otherwise, place or have the potential to place a retailer's independence at risk?

3. *Slotting allowances (slotting fee) arrangements.* The TTB regulations provide that paying or crediting a retailer for any advertising, display, or distribution service is an inducement. The RFI Comments identified slotting fees as a major issue in the marketplace. TTB regulations do not expressly define slotting fees. TTB invites comments on whether TTB should update the trade practice regulations to include a definition of slotting fees, and, specifically, the extent to which such a definition should account for display space in the retail premises (*e.g.,* shelves, designated high-visibility areas behind the bar, tap lines, well/rail placement, prominent placement on menus, or in featured drinks) as well as virtual display space (*e.g.,* digital retail storefront, associated digital ad campaigns where products may be purchased online). TTB also seeks comments on whether the slotting fee definition should include free or subsidized equipment that is, by agreement or design, only able to display or dispense the furnishing industry member's products.

4. *Interest in a retail license or property.* TTB seeks comments on whether TTB should amend the tied house regulations to address crowdfunding and/or minority interest in a retail license/property as being an interest that would not result in an inducement. TTB also invites comments on whether TTB should define a level of ownership interest that would not result in exclusion and, if so, what that interest should be.

5. *Third party companies.* Although TTB's tied house regulations apply to inducements furnished directly, indirectly, or through an affiliate, there may be some confusion pertaining to inducements made through third party companies. How might TTB amend the regulations to better address such inducements? How might TTB amend the regulations to address third party delivery/fulfillment services?

6. *Consumer specialty items and point of sale advertising materials.* Within certain limitations, TTB's tied house regulations allow industry members to provide retailers certain consumer specialty items and point of sale advertising. See 27 CFR 6.84. Some of these items, especially ''alcoholic beverage lists or menus,'' have been used to provide hidden inducements to retailers. How might TTB update the list of specialty items and point of sale advertising materials allowed under the regulations to discourage their use for illicit purposes? Should TTB update the regulations to place monetary caps on these items?

7. *Tied House payment terms.* The tied house regulations currently allow for a 30-day extension of credit for retailers that would not result in an inducement. See 27 CFR 6.65. Should TTB consider allowing for longer payment terms for retailers? If so, what should those payment terms be?

8. *Consignment sales payment terms safe harbor.* TTB recently issued TTB Industry Circular 2022–1, ''Payment Terms Under Consignment Sales Provisions,'' announcing a safe-harbor for 30-day payment terms, which the Circular deemed unlikely to result in a consignment sale arrangement. TTB seeks comments on whether it should amend the regulations to add specific safe harbor payment terms and, if so, what any such terms should be.

9. *Definition of trade buyer.* The FAA Act defines a ''trade buyer'' as ''any person who is a wholesaler or retailer.'' Similarly, TTB's commercial bribery and consignment sales regulations define a ''trade buyer'' as ''any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.'' See 27 CFR 10.11 and 11.11. There has been some confusion about how such definitions apply to importers that wholesale (purchase for resale at wholesale) the products they import but are not required to obtain a separate wholesale basic permit pursuant to 27 U.S.C. 203(a)(2). TTB seeks comments on whether it should amend the regulations to clarify that trade buyers include persons engaged in wholesaling or retailing alcohol beverage products, regardless of permit status.

10. *Private label arrangements.* A number of RFI Comments expressed concerns about private label arrangements and how many of those arrangements may run afoul of the TTB trade practice regulations. Private label arrangements may involve an industry member contracting with a retailer to produce products on the retailer's behalf creating the potential for exclusive outlet or tied house violations. TTB seeks comments on how its tied house and/or exclusive outlet regulations might address private label arrangements.

11. *Brand sharing with retail establishments.* Some industry members have directly or indirectly entered into arrangements whereby retailers are permitted or required to use an industry member's brand name as part of the name of the retail establishment. TTB seeks comments on whether it should amend the regulations to specifically address brand sharing arrangements.

12. *Sponsorships.* A number of RFI Comments identified exclusionary concerns with sponsorships at ballparks, concert venues, and other events. How might TTB amend the regulations to clarify when this conduct may be exclusionary?

13. *Activities which result in exclusion or place retailer independence at risk.* Under the tied house, exclusive outlet, and commercial bribery regulations (27 CFR parts 6, 8, and 10, respectively), an inducement or requirement to purchase an industry member's products violates the FAA Act if such activity resulted in exclusion. See 27 CFR 6.21, 8.21, and 10.21. Exclusion occurs when (1) a practice of the industry member, whether directly or indirectly, places (or has the potential to place) retailer (or trade buyer with respect to commercial bribery) independence at risk by means of a tie or link between the parties or any other means of industry member control over the retailer or trade buyer; and (2) such practice results in the retailer or trade buyer purchasing less than it would have of a competitor's product. See 27 CFR 6.151, 8.51, and 10.51. The tied house and commercial bribery regulations specify certain practices deemed to place a retailer's or trade buyer's independence at risk. See 27 CFR 6.152 and 10.52. The exclusive outlet regulations specify certain practices that result in exclusion and other practices that do not result in exclusion. See 27 CFR 8.52 and 8.53.

TTB invites comments as to how it might update the regulations with respect to which practices place or have the potential to place retailer independence at risk, as well as which activities would result in exclusion under these parts. TTB also invites comments on whether it should clarify or alter the definition of exclusion in terms of ''purchasing less'' of a competitor's product, as provided in the regulations. See, *e.g.,* 27 CFR 6.151(a)(2); 8.51(a)(2); 10.51(a)(2). For example, new retail establishments may have never purchased from competing industry members that did not induce or require such purchases. Should the regulations explicitly address that situation, and, if so, how? Should TTB modify the regulations to establish and clarify levels of proof that would be deemed sufficient or insufficient to demonstrate exclusion?

14. *Criteria for determining a risk to retailer independence.* The tied house, exclusive outlet, and commercial bribery regulations provide specific criteria that indicate that a particular

practice, other than those specifically listed in §§ 6.152, 8.52, 8.53, and 10.52, places retailer or trade buyer independence at risk. See 27 CFR 6.153, 8.54 and 10.54. TTB invites comments on how TTB might amend the regulations to provide additional clarity as to when a wholesaler or retailer's independence is at risk.

15. *Third party contracts.* The exclusive outlet regulations provide that contracts between an industry member and retailer, which require the retailer to purchase products from that industry member and expressly restrict purchase of such products from another industry member, are practices which result in exclusion. See 27 CFR 8.52. How might TTB clarify that such contracts between an industry member and a third party, where the third party controls the retailer, would also result in exclusion?

16. *Sales competitions.* A number of RFI Comments expressed concern that large industry members are engaging in commercial bribery activities by offering incentives, including, but not limited to, cash, airline tickets to tropical getaways, tickets to sporting events, flat screen televisions, and vacations for trade buyer sales representatives to push sales of the industry member's products. Current regulations provide that such inducements threaten trade buyer independence if provided to sales representatives in secret. TTB seeks comment on whether any such inducements threaten trade buyer independence regardless of whether they are provided in secret.

In addition to the specific requests for comments above, TTB is interested in receiving comments on any other issue or concern related to TTB's trade practice regulations.

As noted above, Treasury requested comments on, among other topics, the issue of trade practices in its recently published RFI regarding the current market structure and conditions of competition in the American markets for beer, wine, and spirits. Treasury received a number of comments on trade practices in response to that RFI, and TTB will consider those comments for the purposes of this advance notice of proposed rulemaking as well.

Public Participation

Comments Invited

TTB requests comments from industry members, consumers, and anyone interested in whether TTB should proceed with regulatory initiatives concerning the issues described above in this document. Please submit your comments by the closing date shown above in this document.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 216 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, its supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings Division by email using the web form available at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–2265, if you have any questions regarding how to comment on this proposal or to request copies of this document, its supporting materials, or the comments received in response.

Drafting Information

Christopher Forster-Smith of the Regulations and Rulings Division drafted this advanced notice of proposed rulemaking. Other TTB staff also participated in its development.

Signed: November 3, 2022.

Mary G. Ryan,

Administrator.

Approved: November 3, 2022.

Thomas C. West, Jr.,

Deputy Assistant Secretary (Tax Policy).

[FR Doc. 2022–24435 Filed 11–8–22; 8:45 am]

BILLING CODE 4810–31–P

POSTAL SERVICE

39 CFR Part 111

Address Correction Notices

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) in section 705.23, to update information regarding address correction requests and remove hardcopy address correction notice options for Full-Service and Seamless Acceptance mailers.

DATES: Submit comments on or before December 9, 2022.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Address Correction Notices''. Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Starlene Blackwood at (901) 681–4475 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION:

Background

Ancillary service endorsements provide an option for mailers to instruct the Postal Service on how to treat their mail if it is determined to be undeliverable-as-addressed and to request address correction services. Address corrections are currently available in four available formats: a returned mailpiece with the new address or reason for nondelivery attached; PS Form 3547 *Notice to Mailer of Correction in Address* that is mailed to the return address on a mailpiece; PS Form 3579 *Notice of Undeliverable Periodical* mailed to the publisher address indicated in the publication ID Statement; or via ACS™ (Address Change Service) which is an electronic address correction notice made available to the sender via download from a secure USPS website that requires a login and password to access the files. Address correction fees are charged based on the method in which they are provided, with return mail

costs and manual address correction fees that reflect the USPS costs to handle those notices.

Participating Full-Service and Seamless Acceptance mailers receive ACS notices at no charge. As a result, notices provided to mailers in this format has far exceeded the volume of returned mail and PS Forms 3547 and 3579 requested and generated from undeliverable Full-Service and Seamless Acceptance mail.

Proposal

The Postal Service is proposing to remove the option to request PS Forms 3547, *Notice to Mailer of Correction in Address,* and PS Form 3579, *Notice of Undeliverable Periodical,* for Full-Service and Seamless Acceptance mailers.

Full Service and Seamless Acceptance mailers and publishers that desire address correction information from undeliverable as addressed (UAA) mail will be required to receive address correction notices electronically via ACS. Those mailers that apply the ancillary service endorsement ''Address Service Requested'' or ''Change Service Requested'' to their mail, and Periodical publishers will receive ACS notices via the Data Distribution Dashboard from the Business Customer Gateway or by enrolling in the Electronic Product Fulfillment (EPF) secure website at *https://epf.usps.gov.* When appropriate, the electronic or automated address correction fees will be charged for each ACS notice provided.

The Postal Service is proposing to implement this change effective July 9, 2023. However, mailers that currently request manual address corrections via PS Form 3547 or PS Form 3579 may begin to request ACS immediately. We believe this proposed revision will provide customers with more efficient and less costly address correction notices.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

* * * * *

507 Mailer Services

* * * * *

4.0 Address Correction Services

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4.2 Address Change Service (ACS)

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4.2.6 Additional Standards—When Using Intelligent Mail Barcodes

[Revise the introductory text of 4.2.6 to read as follows:]

Mailers can access OneCode ACS using an Intelligent Mail barcode, which contains a valid Service Type Identifier indicating the ancillary service requested; a numeric Mailer ID; and the Serial Number, a unique numeric mailpiece identifier (Keyline equivalent). This option is available for letters and flat size pieces mailed as First-Class Mail, USPS Marketing Mail, and Periodicals. Address Service, Change Service and Return Service Ancillary Services are available for letters and flat-sized mail pieces mailed as First-Class Mail, USPS Marketing Mail, and Bound Printed Matter (BPM), by choosing the appropriate ACS Service Type Identifier in the Intelligent Mail barcode. USPS Marketing Mail and Bound Printed Matter pieces with ACS using an Intelligent Mail barcode require the use of a printed on-piece endorsement. ACS mailers are encouraged to use the ''Electronic Service Requested'' text endorsement. Other printed endorsements are not required to request ancillary services in conjunction with an Intelligent Mail barcode used on First-Class Mail or Periodicals mailpieces, and their use may produce unintended results. Full-Service and Seamless Acceptance mailers that desire separate address corrections using Address Service and Change Service ancillary services must request ACS and will receive the ACS notices through Full Service. See 705.23.5.2 for additional standards. For other mailers, in order to receive requested ACS information, mailers must notify the NCSC, ACS Department in Memphis, TN, in writing, seven days prior to mailing to establish a method for ACS notice fulfillment and to arrange for payment of electronic or automated address correction fees. Mailpieces must meet the following specifications:

* * * * *

700 Special Standards

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705 Advanced Preparation and Special Postage Payment Systems

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23.0 Full-Service Automation Option

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23.5 Additional Standards

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23.5.2 Address Correction Notices

[Revise the text of 23.5.2 to read as follows:]

Mailers presenting mailpieces (except for those noted below) that qualify for the full-service Intelligent Mail option will receive automated address correction notices electronically when the pieces are encoded with Intelligent Mail barcodes with ''Address Service Requested'' or ''Change Service Requested'' under standards for OneCode ACS and under the following conditions:

a. Mailpieces must include the appropriate ACS service type ID in the Intelligent Mail barcode to match the ancillary service requested. See 507.1.5 for mail disposition and address correction combinations by class of mail.

b. Complimentary ACS ancillary service address correction notices for mailpieces in full-service mailings are available for:

1. First-Class Mail letters and flats, provided at no charge (printed endorsement not required for letters).

2. Periodicals letters and flats, provided at no charge (printed endorsement not required).

3. USPS Marketing Mail letters and flats or BPM flats, provided at no charge. USPS Marketing Mail and BPM pieces must include a printed on-piece endorsement in addition to encoding the ACS ancillary service request into

the Intelligent Mail barcode. See 507.4.2 for additional standards.

c. Mailers must use the ACS address correction information provided by USPS to update their address records to receive notices without paying additional fees. Beginning July 9, 2023, address corrections will only be provided electronically in the Business Customer Gateway under Mailing Reports utilizing the Data Distribution and Informed Visibility Dashboard

d. A new Service Type Identifier (STID) Table will be published on PostalPro removing all STID references for manual corrections when mailers present qualifying Full-Service mail.

* * * * *

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–24136 Filed 11–8–22; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2022–0632; FRL–10362–01–R8]

Air Plan Approval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 22, 2021, the State of Colorado submitted State Implementation Plan (SIP) revisions related to attainment of the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the Denver Metro/North Front Range (DMNFR) Serious nonattainment area by the applicable attainment date of July 20, 2021. The Environmental Protection Agency (EPA) proposes to approve the majority of the submittal, including base and future year emission inventories, a reasonable further progress (RFP) demonstration, a reasonably available control measures (RACM) analysis, a motor vehicle inspection and maintenance (I/M) program, a nonattainment new source review (NNSR) program, 2020 motor vehicle emissions budgets (MVEBs) and transportation controls, a clean fuel fleet program, and revisions to Colorado Air Quality Control Commission (Commission or AQCC) regulations for the control of ozone via ozone precursors and control of hydrocarbons via oil and gas emissions. The EPA is also proposing to approve portions of the reasonably available control technology (RACT) analyses and revisions from submissions made on May 13, 2020; May 18, 2021; and May 20, 2022. Finally, the EPA proposes to approve revisions from submissions made on May 14, 2018, May 13, 2020, and May 20, 2022 that were conditionally approved on May 13, 2022. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before December 9, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2022–0632, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6563, email address: *fulton.abby@epa.gov.*

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

The information presented in this document is organized as follows:

I. What action is EPA taking?

As explained below, the EPA is proposing various actions on Colorado's proposed SIP revisions that were submitted on May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022. Specifically, we are proposing to approve portions of Colorado's Serious attainment plan for the 2008 8-hour ozone NAAQS. In addition, we propose to approve the MVEBs and revisions to Regulation Number 7 (Reg. 7) contained in the State's submittal. We also propose to approve all other aspects of the submittal, except for the RACT submission for certain sources and enhanced monitoring, which we will be acting on at a later date, and for the attainment demonstration and contingency measures. We are also proposing to approve revisions to Colorado Regulation Number 21 (Reg. 21) from the State's May 13, 2020 submittal, and to Reg. 7 from the State's May 18, 2021 submittal. Finally, we are proposing to approve the Reg. 7 revisions from the State's May 14, 2018, May 13, 2020, and May 20, 2022

submittals that were conditionally approved on May 13, 2022.[1]

The basis for our proposed action is discussed in this proposed rulemaking. Technical information that we rely upon in this proposal is in the docket, which is available at *http://www.regulations.gov,* Docket No. EPA–R08–OAR–2022–0632.

II. Background

2008 8-Hour Ozone NAAQS Nonattainment

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years), to provide increased protection of public health and the environment.[2] The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Specifically, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.[3] Effective July 20, 2012, the EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data.[4] With that rulemaking, the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado area (Denver or DMNFR Area) area was designated nonattainment and classified as Marginal.[5] Ozone nonattainment areas are classified based on the severity of their ozone levels, as determined using the area's design value. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration at a monitoring site.[6] Areas designated as nonattainment at the Marginal classification level were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data.[7]

On May 4, 2016, the EPA published its determination that the Denver Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that it was accordingly reclassified to Moderate ozone nonattainment status.[8] Colorado submitted SIP revisions to the EPA on May 31, 2017 to meet the Denver Area's requirements under the Moderate classification.[9] The EPA took final action on July 3, 2018, approving the majority of the May 31, 2017 submittal, but deferring action on portions of the submitted Reg. 7 RACT rules.[10] On February 24, 2021, the EPA took final action approving additional measures as addressing Colorado's RACT SIP obligations for Moderate ozone nonattainment areas.[11] Areas that were designated as Moderate nonattainment were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, based on 2015–2017 monitoring data.[12] On December 26, 2019, the EPA published its determination that the Denver Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that it was accordingly reclassified to Serious ozone nonattainment status.[13]

III. Summary of the State's SIP Submittals

We are proposing to take action on Colorado SIP submittals made on five different dates:

May 14, 2018 Submittal

This submittal contains amendments to Reg. 7, sections XII (Volatile Organic Compound Emissions from Oil and Gas Operations) and XVIII (Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations) to meet RACT for oil and gas sources covered by the EPA's 2016 Oil and Gas Control Techniques Guidelines (CTG).[14] We previously acted on all parts of this SIP submittal [15] except for revisions to Reg. 7, section XII.J.1., concerning centrifugal compressors, as to which we proposed conditional approval. We are now proposing approval of those revisions.

May 13, 2020 Submittals

On this date the State submitted two SIP revisions. One of the submittals includes a full reorganization of Reg. 7 into parts A–E, amends oil and gas storage tank requirements, updates RACT requirements for major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) in the DMNFR Area, updates requirements for gasoline transport truck testing and vapor control systems, and contains typographical, grammatical, and formatting corrections throughout. We previously acted on all parts of this SIP submittal [16] except for revisions to Reg. 7, sections I.D., I.E, and I.F. concerning storage tanks, and section I.J.1. concerning centrifugal compressors, as to which we proposed conditional approval. We are now proposing approval of those revisions.

The second submittal contains new Reg. 21 to limit the VOC content in consumer products and in architectural and industrial maintenance (AIM) coatings manufactured, distributed, or sold in the DMNFR Area. Specifically, the Commission adopted VOC standards in the Ozone Transport Commission (OTC) AIM coatings model rule phase 2 (2014) and VOC standards in the OTC consumer products model rule phase 4 (2013). Reg. 21 includes definitions, exemptions, labeling, and recordkeeping provisions based on the OTC model rules.

March 22, 2021 Submittal

This submittal contains the State's Serious ozone attainment plan and revisions to Reg. 7 to include RACT requirements in Colorado's ozone SIP for 50 tons per year (tpy) major sources of VOC and/or NO_X. The Reg. 7 revisions include expansion of

[1] Final rule, Air Plan Conditional Approval; Colorado; Revisions to Regulation Number 7 and Oil and Natural Gas RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 87 FR 29228.

[2] Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008). The EPA has since further strengthened the ozone NAAQS, but the 2008 8-hour standard remains in effect. See Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (Oct. 26, 2015).

[3] 40 CFR 50.15(b).

[4] Final rule, Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards, 77 FR 30088 (May 21, 2012).

[5] *Id.* at 30110. The nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties, and portions of Larimer and Weld Counties. *See* 40 CFR 81.306.

[6] 40 CFR part 50, appendix I.

[7] *See* 40 CFR 51.903.

[8] Final rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards, 81 FR 26697 (May 4, 2016).

[9] CAA section 182, 42 U.S.C. 7511a, outlines SIP requirements applicable to ozone nonattainment areas in each classification category. Areas classified Moderate under the 2008 8-hour ozone NAAQS had a submission deadline of January 1, 2017 for these SIP revisions (81 FR 26699).

[10] Final rule, Approval and Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions (83 FR 31068).

[11] Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 11125.

[12] *See* 40 CFR 51.903.

[13] Final rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897 (Dec. 26, 2019); *see* 40 CFR 81.306.

[14] Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA–453/B–16–001 (Oct. 2016).

[15] Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7; Aerospace, Oil and Gas, and Other RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 61071 (Nov. 5, 2021).

[16] 86 FR 61071 (Nov. 5, 2021).

categorical requirements to reduce VOC emissions related to wood surface coatings in part C, section I.O., adding NO_X emission limits for turbines, boilers, and landfill or biogas engines in part E, section II, and adding categorical requirements to reduce VOC emissions related to foam manufacturing in part E, section V. Typographical, grammatical, and formatting corrections were also made.

May 18, 2021 Submittal

The state regulations included with this submittal contain mostly state-only revisions that have not been submitted for inclusion in the SIP. Portions of these regulations submitted as SIP revisions include typographical, grammatical, and formatting corrections to the outline of Reg. 7 and part E (combustion equipment at major source RACT).

May 20, 2022 Submittals

On this date the State submitted three SIP revisions. One of the submittals contains amendments that were mostly state-only and not submitted as SIP revisions. The SIP revisions adopted by the AQCC on Feb. 19, 2021 include updates to definitions in Reg. 7, part D, section III (natural gas-actuated pneumatic controllers associated with oil and gas operations).

Another submittal contains amendments to Reg. 7 that establish categorical RACT requirements for major sources of NO_X and certain CTG sources in the DMNFR Area. Specifically, on July 16, 2021 the AQCC adopted RACT requirements in part C, section I for miscellaneous metal parts coatings and part E, section II RACT requirements for process heaters at major sources of NO_X emissions. Typographical, grammatical, and formatting corrections were also made.

The third submittal contains revisions concerning RACT requirements for oil and gas sources. Specifically, on Dec. 17, 2021 the AQCC adopted revisions to Reg. 7, part D, section I for performance or manufacturer testing for combustion equipment used to control emissions from storage vessels and wet seal centrifugal compressors as to which we proposed conditional approval. We are now proposing approval of those revisions.

IV. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting SIP revisions to the EPA, including the requirement that states adopt SIP revisions after reasonable notice and public hearing.[17] For the May 14, 2018 submittal, the AQCC provided notice in the Colorado Register on August 10, 2017 [18] and held public hearings on the revisions on October 19 and 20, 2017. The Commission adopted the revisions on November 17, 2017. The revisions became state-effective on December 30, 2017.

For the May 13, 2020 (part D, oil and gas) submittal, the AQCC provided notice in the Colorado Register on October 10, 2019 [19] and held public hearings on the revisions on December 17–19, 2019. The Commission adopted the revisions on December 19, 2019. The revisions became state-effective on February 14, 2020.

For the May 13, 2020 (Reg. 21) submittal, the AQCC provided notice in the Colorado Register on May 10, 2019 [20] and held a public hearing on the revisions on July 18, 2019. The Commission adopted the revisions on November 17, 2016. The revisions became state-effective on September 14, 2019.

For the March 22, 2021 submittal, the AQCC provided notice in the Colorado Register on October 10, 2020 [21] and held a public hearing on the revisions on December 16, 2020. The Commission adopted the revisions on December 18, 2020. The revisions became state-effective on February 14, 2021.

For the May 18, 2021 submittal, the AQCC provided notice in the Colorado Register on July 10, 2020 [22] and held a public hearing on the revisions on September 17, 2020. The Commission adopted the revisions on September 23, 2020. The revisions became state-effective on November 14, 2020.

For the May 20, 2022 submittal (part D, Definitions) the AQCC provided notice in the Colorado Register on January 10, 2021 [23] and held a public hearing on the revisions on February 18, 2021. The Commission adopted the revisions on February 18, 2021. The revisions became state-effective on April 14, 2021.

For the May 20, 2022 submittal (Misc. Metals and Process Heater) the AQCC provided notice in the Colorado Register on May 10, 2021 [24] and held a public hearing on the revisions on July 16, 2021. The Commission adopted the revisions on July 16, 2021. The revisions became state-effective on September 14, 2021.

For the May 20, 2022 submittal (part D, Oil and Gas) the AQCC provided notice in the Colorado Register on October 10, 2021 [25] and held a public hearing on the revisions on December 14, 2021. The Commission adopted the revisions on December 17, 2021. The revisions became state-effective on January 30, 2022.

Accordingly, we propose to find that Colorado met the CAA's procedural requirements for reasonable notice and public hearing.

V. The EPA's Evaluation of Colorado's Submissions

2008 Ozone Serious SIP Submittal

CAA section 182 outlines SIP requirements applicable to ozone nonattainment areas in each classification category. A Serious area classification triggers requirements for state submissions described in the EPA's regulations implementing the 2008 8-hour ozone NAAQS.[26] Examples of these requirements include submission of a modeling and attainment demonstration, RFP, an enhanced inspection and maintenance program, RACT, and RACM. Serious nonattainment areas had a submission deadline of August 3, 2020 for these SIP revisions.[27]

Colorado submitted SIP revisions to the EPA on March 22, 2021, to meet the requirements of a Serious area classification for the DMNFR Area. Colorado's proposed SIP revisions consist of the parts listed below.

- 8-Hour Ozone Attainment Plan (OAP), which includes monitoring information, emission inventories, an RFP demonstration, an attainment demonstration using photochemical grid modeling, a RACT analysis, a RACM analysis, a motor vehicle emissions I/M program, NNSR program certification, contingency measures, MVEBs for transportation conformity, and a clean fuel fleet program.
- Revisions to Reg. 7.

A. Emissions Inventories

1. Background

CAA section 172(c)(3), requires that each SIP include a ''comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in [the] area.'' The accounting required by this section provides a ''base year'' inventory that serves as the starting point for

[17] CAA section 110(a)(2), 42 U.S.C. 7410(a)(2).

[18] 40 CR 15 available at *https://www.sos.state.co.us/CCR/RegisterHome.do.*

[19] 42 CR 19.

[20] 42 CR 9.

[21] 43 CR 19.

[22] 43 CR 13.

[23] 44 CR 1.

[24] 44 CR 9.

[25] 44 CR 19.

[26] *See* 40 CFR part 51, subpart AA.

[27] *See* 84 FR 70897 (Dec. 26, 2019).

attainment demonstration air quality modeling, for assessing RFP, and for determining the need for additional SIP control measures. An attainment year inventory is a projection of future emissions and is necessary to show the effectiveness of SIP control measures. Both the base year and attainment year inventories are necessary for photochemical modeling to demonstrate attainment. As previously noted, we are not acting on the attainment modeling demonstration in this action, but are evaluating Colorado's emission inventories for purposes of meeting RFP requirements.

Colorado's DMNFR Serious area attainment plan includes a 2011 base year inventory, a 2017 milestone year inventory, and a 2020 attainment year inventory. The inventories catalog NO_X and VOC emissions, because these pollutants are precursors to ozone formation, across all source categories during a typical summer day, when ozone formation is pronounced. The State developed an updated 2017 ''milestone year'' emissions inventory for the Serious nonattainment area. When initially developed for the Moderate area SIP, the 2017 inventory was calculated based on projected values. The 2017 inventory approved as part of the Moderate area SIP has been updated for the purposes of the Serious area SIP using data collected in 2017 [28] and methodologies as presented in chapter 3 of the OAP.

2. Evaluation

The 2011 base year inventory was included as part of the Moderate area SIP submittal and approved as part of our July 3, 2018 action.[29] As part of the Moderate area SIP, a projected 2017 attainment year emissions inventory was developed and approved by the EPA on July 3, 2018.[30] Due to the reclassification of the DMNFR to Serious nonattainment for the 2008 ozone NAAQS, CDPHE prepared an updated 2017 emissions inventory based on currently available data in accordance with the EPA's revised guidance on emissions inventory developments.[31] The updated 2017 emissions inventory was resubmitted to meet the State's Serious area SIP requirements.[32]

The 2017 milestone year emissions inventories are in tons per summer day and represent the most current available data, as of the time of submission, for emissions estimates for an average episode day during the peak summer ozone season of June through September. This includes actual data for the oil and gas sector and stationary sources in addition to newer data from updated regional transportation demand models used by the two Metropolitan Planning Organizations in the DMNFR Area.

The 2020 inventory is in tons per summer day and represents emissions estimates for an average episode day during the peak summer ozone season (June through September). The 2020 inventory for VOC and NO_X accounts for emissions growth associated with changes in population, fuel use, and economic activity as well as emissions reductions associated with controls that were in place as SIP control measures by the beginning of the 2020 summer ozone season. The EPA has provided guidance on developing emission projections to be used with models and other analyses for demonstrating attainment of air quality goals for ozone.[33]

The 2017 milestone year and 2020 attainment emission inventories were developed using EPA-approved emissions models, methodology, and guidelines for stationary, mobile, and area emission sources.

The 2017 emissions inventories for power plants (also referred to as electric generating units) and other point sources were developed using Colorado Air Pollutant Emission Notice (APEN) reported data for each year, as specified in Tables 16 and 17 of the OAP. Area sources include many categories of emissions, such as coatings, household and personal care products, pesticides, and sealants. The 2017 area source emissions inventory is included in Table 18 of the OAP. The inventory was based on the EPA's 2014 National Emissions Inventory (NEI) and was derived from the 2014 NEI based on county population projections from the Colorado State Demography Office. The EPA finds that these sources (including those in the oil and gas sector) were adequately accounted for in the emissions inventory. The methodology used to calculate emissions for each respective category was consistent with recommendations and explanations in relevant EPA guidance,[34] employed applicable approved emission factors and NEI data, and was sufficiently documented in the SIP and in the State's technical support documents (TSD).[35]

Projected future emissions in 2020 were based on anticipated growth, technological advancements, and expected emissions controls that were to be implemented by the 2020 ozone season. The 2020 oil and gas emission inventory was based on 2017 actual site-specific emissions and 2018 APEN reported data, including technology and production and projected 2020 emissions and production. The 2020 emissions inventory for EGUs was developed based on Colorado APEN reported data for 2018 and is specified in Table 28 of the OAP. The future year inventory for other point sources beyond EGUs is based on 2018 APEN data. The 2020 area source inventory is provided in Table 30 of the OAP and was grown from the EPA's 2014 NEI based on county population projections from the State Demography Office. Reductions from implementation of Colorado AQCC Reg. 21 were then applied.[36] On-road and non-road mobile source emissions for the 2020 inventory were calculated using the EPA's MOVES2014b [37] model combined with local activity inputs including vehicle miles traveled (VMT) and average speed data, as well as local fleet, age distribution, meteorology, and fuels information. Table 34 of the OAP includes biogenic emissions as part of the overall 2020 future year emissions inventory.

Table 1 shows the emissions by source category from the 2011 base year, 2017 milestone year, and 2020 attainment year emission inventories.

[28] Pursuant to 40 CFR 51.1110(b), the values in the submitted 2011 base year EI are actual ozone season day emissions.

[29] 83 FR 31068 (July 3, 2018).

[30] *Id.*

[31] *See* ''Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–002. Revised May 2017.

[32] CAA section 182(c)(2)(B).

[33] Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations (May 2017) (''Emissions Inventory Guidance''), available at *https://www.epa.gov/sites/default/files/2017/07/documents/ei_guidance_may_2017_final_rev.pdf.*

[34] Emissions Inventory Guidance; MOVES2014, MOVES2014a, and MOVES2014b Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity, EPA–420–B–18–039 (Aug. 2018) (''MOVES Guidance''), available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100V7EY.pdf.*

[35] *See* Colorado Serious SIP submittal, TSD for Mobile and Area Sources Emissions Inventory Development. Available within the docket for this action.

[36] See section *I. SIP Control Measures* of this document for a discussion of Reg. 21 controls.

[37] EPA's Motor Vehicle Emission Simulator (MOVES) is a state-of-the-science emission modeling system that estimates emissions for mobile sources at the national, county, and project level for criteria air pollutants, greenhouse gases, and air toxics. See *https://www.epa.gov/moves.*

TABLE 1—EMISSIONS INVENTORY DATA

Description	2011		2017		2020	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Area (non-oil and gas) Total	60.6		65.3		54.6	
Non-Road Total	58.2	75.9	44		44.3	39.1
Oil and Gas Sources						
Area	48.9	22.2	43.6	38.1	54.5	34.4
Condensate/Oil Tanks	216	1.1	107.7	1.4	50.2	0.6
Point	14.8	18.1	12	11.5	14.3	13.1
Oil and Gas Total	279.7	41.4	163.3	51.0	119.0	48.2
On-Road						
Light-Duty Vehicles	90.0	102.5	55.6	53.5	47.6	41.4
Medium/Heavy-Duty Vehicles	3.7	39.6	2.0	14.9	1.8	13.3
On-Road Total	93.7	142.1	57.6	68.4	49.4	54.7
Point Sources						
EGU	0.7	39.7	0.3	9.4	0.4	4.6
Non-EGU	25.9	21.0	22.6	15.8	24.6	17.1
Point Total	26.6	60.7			25	21.7
Total Anthropogenic Emissions	**518.8**	**320**	**353.1**	**187.1**	**292.3**	**163.7**

Details of Colorado's emissions inventory development are in Colorado's supporting TSD.[38] The inventories in the SIP are based on the most current and accurate information available to the State and the Regional Air Quality Council (RAQC) at the time the SIP was being developed. Additionally, the inventories comprehensively address source categories in the DMNFR nonattainment area, and were developed consistent with the relevant EPA inventory guidance. For these reasons, we propose to approve the 2017 milestone inventory and the 2020 inventory, which will be used to meet RFP requirements.[39] The following section discusses RFP further.

B. Reasonable Further Progress Demonstration

1. Background

CAA section 182(b)(1) and the EPA's 2008 Ozone Implementation Rule[40] require each 8-hour ozone nonattainment area designated Moderate and above to submit an RFP demonstration for review and approval into its SIP that describes how the area will achieve actual VOC and NO_X emissions reductions from a baseline emissions inventory. CAA section 182(b)(1), which is part of the ozone-specific nonattainment plan requirements of subpart 2 of the CAA, requires RFP to demonstrate a 15% reduction in VOC emissions. To satisfy the section 182(b)(1) RFP requirement, on May 31, 2017 Colorado submitted an RFP demonstration showing VOC emission reductions greater than 15% over the six years after the 2011 base year inventory (*i.e.,* 2012–2017). The EPA approved this 15% RFP SIP on July 3, 2018.[41]

As noted above, the CAA section 182(b)(1) requirement for a 15% RFP demonstration applies to ozone nonattainment areas classified Moderate and above. In addition, Serious ozone nonattainment areas are subject to the CAA section 182(c)(2)(B) requirement to submit SIP revisions showing a 9% reduction of VOC[42] emissions over each consecutive three-year period beginning six years after redesignation until the attainment date. For the DMNFR Area, the redesignation date was July 20, 2012. Accordingly, the DMNFR Area was required to submit SIP revisions showing that 9% reductions in ozone precursor emissions would be achieved between January 1, 2018 and December 31, 2020.

2. Evaluation

We reviewed the State's 9% RFP submittal for consistency with the requirements of the CAA and EPA regulations and guidance. To demonstrate compliance with RFP requirements, the State compared its 2017 milestone VOC inventory against its projected 2020 VOC emissions inventory and demonstrated that the projected 2020 emissions of VOC were at least 9% below the 2011 base year inventory. Colorado projected an 11.7% reduction in VOC emissions from 2017–2020.[43] As discussed in section V.A. of this document, the EPA reviewed the procedures Colorado used to develop its projected inventories and the State's submittal for consistency with the requirements of the CAA and the EPA's regulations and guidance and found them to be reasonable. We therefore

[38] *See* Colorado Serious SIP submittal, TSD for Mobile and Area Sources Emissions Inventory Development. Available within the docket for this action.

[39] The EPA approved Colorado's 2011 base year inventory in our July 3, 2018 action (83 FR 31068).

[40] 80 FR 12264, 12266 (March 6, 2015).

[41] 83 FR 31068. The state's 15% RFP demonstration was also sufficient to satisfy the more general CAA subpart 1 requirements of CAA section 172(c)(2), which permits a combination of VOC and NO_X emission reductions to show RFP.

[43] S*ee* OAP, Table 35 on page 4–21. This projection has proven to be correct. See the ''Denver Metro Area/North Front Range Nonattainment Area Milestone Compliance Demonstration,'' March 31, 2021 and the EPA's 2020 milestone compliance demonstration adequacy letter, July 6, 2021. Available in the docket for this action.

propose approval of Colorado's Serious-area RFP demonstration.

C. Reasonably Available Control Technology (RACT) Analysis

1. Background

Section 172(c)(1) of the CAA requires that SIPs for nonattainment areas ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology).'' The EPA has defined ''reasonably available control technology'' (RACT) as ''[t]he lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' [44] The EPA provides guidance concerning what types of controls may constitute RACT for a given source category by issuing Control Techniques Guidelines (CTG) and Alternative Control Techniques (ACT) documents.[45] States must submit a SIP revision requiring the implementation of RACT for each source category in the area for which the EPA has issued a CTG, and for any major source in the area not covered by a CTG.[46]

For a Moderate, Serious, or Severe area a major stationary source is one that emits, or has the potential to emit, 100, 50, or 25 tpy or more, respectively, of VOCs or NO_X.[47] Accordingly, for the DMNFR Serious nonattainment area, a major stationary source is one that emits, or has the potential to emit, 50 tpy or more of VOCs or NO_X. RACT can be adopted in the form of emission limitations or ''work practice standards or other operation and maintenance requirements,'' as appropriate.[48]

On reclassification to Serious status, the DMNFR Area was required to implement RACT as expeditiously as practicable, but no later than August 3, 2020 for RACT needed for demonstrating attainment and July 20, 2021 for RACT not needed for demonstrating attainment.[49] The Division conducted a series of analyses and rulemakings to address 2008 ozone Moderate and Serious RACT requirements.

As part of its May 31, 2017 Moderate ozone attainment plan, the Division conducted RACT analyses to demonstrate that the RACT requirements for CTG and major sources in the DMNFR Area had been fulfilled. The Division conducted these RACT analyses for VOC and NO_X by listing state regulations implementing or exceeding RACT requirements for each CTG or non-CTG category at issue, and by detailing the basis for concluding that these regulations fulfilled RACT, through comparison with established RACT requirements described in the CTG and ACT guidance documents and rules developed by other state and local agencies. The EPA approved the majority of the State's CTG RACT analysis on July 3, 2018.[50]

In July 2018, the Commission adopted categorical RACT requirements for combustion equipment at major sources under the Moderate classification that the Commission had determined in 2016 were not addressed by SIP RACT requirements. In November 2019, the Commission adopted SIP requirements to include provisions that implement RACT for major sources of VOC and NO_X under the Serious classification and for additional CTG VOC source categories in the Area. Specifically, the Commission adopted categorical RACT requirements for combustion equipment at major sources, major source breweries, and wood furniture manufacturing, and addressed the EPA's concerns with industrial cleaning solvent and metal furniture surface coating requirements. The EPA approved these revisions on February 24, 2021.[51]

In December 2019, the Commission adopted additional RACT requirements for major sources of VOC and NO_X in the DMNFR Area under the Serious classification, including expanded categorical combustion equipment and new categorical general solvent use requirements. The EPA approved the majority of these revisions on November 5, 2021.[52] The State re-reviewed its point source inventory as part of the March 22, 2021 Serious OAP submittal to verify that non-CTG major sources (50 tpy) of VOC or NO_X emissions in the DMNFR Area are subject to requirements that meet or exceed RACT.[53]

The RACT submissions that we are now proposing to approve include those that we have not previously acted on that are addressing RACT for several non-CTG VOC and NO_X sources and categories. We are also proposing to convert to a full approval our previous conditional approval of submissions made on May 14, 2018, May 13, 2020, and May 20, 2022, concerning RACT related to the Oil and Gas CTG.

2. Evaluation

In preparing its RACT determinations, Colorado reviewed source permits, consulted with Division permitting and enforcement staff involved with each source, and consulted with the sources themselves.[54] Colorado also considered control strategies identified in the CTGs, ACTs, RBLC, EPA's Menu of Control Measures, New Source Performance Standards (NSPS), emission guidelines, National Emission Standards for Hazardous Air Pollutants (NESHAP), and in Colorado's regulations and determined that Colorado's major sources are currently subject to federally enforceable emission limits or requirements similar to measures described in these documents and regulations.[55] In 2019, Colorado incorporated by reference some NSPS and NESHAP requirements into its SIP and expanded the applicability of some

[44] General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines), 44 FR 53761 (Sep. 17, 1979).

[45] *See https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques* for a list of EPA-issued CTGs and ACTs.

[46] *See* CAA section 182(b)(2), 42 U.S.C. 7511a(b)(2)); *see also* Note, RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers, William Harnett, Director, Air Quality Policy Division, EPA (May 2006), available at *https://www.regulations.gov/document/EPA-R08-OAR-2020-0114/0008.*

[47] *See* CAA sections 182(b), 182(c), 182(d), 182(f)(1), and 302(j).

[48] *See* Memorandum, ''Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements,'' Sally Shaver, Director, Air Quality Strategies & Standards Division, EPA (Nov. 7, 1996), available at *https://www.epa.gov/sites/production/files/2016-08/documents/shavermemogenericract_7nov1996.pdf.*

[49] Final rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897, 70900 (Dec. 26, 2019); see also Final rule, Determination of Attainment Date, Extensions of the Attainment Date, and Reclassification of Seceral Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards, 84 FR 44238 (Aug. 23, 2019).

[50] *See* 83 FR 31068. A negative declaration as to RACT for sources covered by the aerospace CTG was approved on November 5, 2021 (86 FR 61071). Colorado's RACT demonstrations for sources covered by the industrial cleaning solvents, metal furniture coatings (2007), and wood furniture CTGs were approved on February 24, 2021 (86 FR 11127); and the state's RACT demonstration for sources covered by the oil and gas CTG was conditionally approved on May 13, 2022 (87 FR 29228).

[51] 86 FR 11127.

[52] Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7; Aerospace, Oil and Gas, and Other RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area 86 FR 61071 (Nov. 5, 2021).

[53] See appendix 6–E of the OAP.

[54] See Colorado's Technical Support Document for Reasonably Available Control Technology for Major Sources, December 14, 2020. Available within the docket.

[55] See *id.*

existing RACT requirements. A summary of our proposed action with respect to each of these RACT categories follows.

TABLE 2—CATEGORIES, PROPOSED ACTION, AND CORRESPONDING SECTIONS OF SUBMITTALS

Category	Proposed action	Location of RACT demonstration
Oil and gas	Approval (converting previous conditional approval to full approval).	Technical Support Document for Reasonably Available Control Technology for the Oil and Gas Industry, Dec. 17, 2021 (contained within the May 20, 2022 submittal).
Combustion equipment at major sources.	Approval	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal) and Technical Support Document for Reasonably Available Control Technology for Major Sources, July 16, 2021 (contained within the May 20, 2022 submittal).
Wood coating	Approval	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal).
Foam manufacturing	Approval	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal).

Cited materials are contained within the docket for this action.

We are proposing action on the RACT demonstrations for certain additional VOC CTG, non-CTG VOC, and NO_X sources and categories. We have reviewed Colorado's new and revised VOC and NO_X rules for the categories covered by the CTGs, and for major sources of non-CTG VOC and NO_X sources for the 2008 8-hour ozone NAAQS, and the demonstrations submitted by Colorado. Based on this review we propose to find that these rules are consistent with the control measures, definitions, recordkeeping, and test methods in these CTGs and the CAA, and that they satisfy CAA RACT requirements for the categories in question.[56]

a. RACT for CTG Sources

Table 3 contains the CTGs, EPA reference document, and the corresponding sections of Reg. 7 that fulfill the applicable RACT requirements for the EPA-issued CTGs. Colorado's Reg. 7 contains SIP approved and submitted revisions (see section V.I. of this document); we propose to find that these revisions meet RACT requirements for the sources listed in Table 3.

TABLE 3—SOURCES, EPA CTG REFERENCE DOCUMENT, AND CORRESPONDING SECTIONS OF REG. 7 PROPOSED FOR APPROVAL TO FULFILL RACT

Sources in the DMNFR area	CTG reference document	Date of CTG	Reg. 7 sections fulfilling RACT
Oil and gas	Control Techniques Guidelines for the Oil and Natural Gas Industry.	2016	part D, sections I, II, and III.
Miscellaneous Metal Coatings, Tables 2 and 7 of the CTG.	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings.	2008	part C, section I.L.2.

We have reviewed the emission limitations and control requirements for the above sources and compared them against the EPA's CTG documents and available technical information in CTG dockets. The EPA has also evaluated the submitted rules and has determined that they are consistent with the CAA, the EPA's regulations, and the EPA's policies. Based on the information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we propose to find that the control requirements for oil and gas sources and certain miscellaneous metal coatings are RACT for affected sources in the DMNFR Area under the 2008 8-hour ozone NAAQS.[57]

b. RACT for Non-CTG Major Sources

In Colorado's TSDs for Reasonably Available Control Technology for Major Sources, dated December 14, 2020,[58] Colorado identified a list of major non-CTG VOC and NO_X sources in the DMNFR Area subject to RACT requirements under a Serious classification. For major VOC and NO_X sources subject to nonattainment area RACT review, Colorado used the construction permit thresholds established in the State's Reg. 3 for determining which emission points to review. Accordingly, emission points exceeding two tpy of VOC at a major VOC source and five tpy of NO_X at a major NO_X source, as reported on a source's APEN, and that were not part of the Moderate RACT review, were evaluated. We have reviewed the State's March 22, 2021 and May 20, 2022 submittals and find its approach to including these sources in the inventory acceptable. To satisfy the Serious RACT SIP requirement to establish RACT for all existing major sources of VOC and/or NO_X in the DMNFR Area, the Commission incorporated by reference NSPS limits for combustion turbines, expanded the combustion equipment requirements for boilers, expanded wood furniture coating requirements, and developed a new categorical rule for foam manufacturing. These revisions were made based on a detailed review of available information on major NO_X

[56] *See https://www.epa.gov/ground-level-ozone-pollution/ract-information.*

[57] For more information, see the EPA TSDs evaluating oil and gas and miscellaneous metal coatings RACT. Available within the docket for this action.

[58] Contained within the March 22, 2021 submittal.

and VOC sources in the DMNFR Area, an examination of the EPA RACT/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse for similar emission points, and consideration of CAA section 182(b) RACT requirements for other ozone nonattainment areas. Table 4 contains a list of non-CTG categories, the EPA's reference documents, and the corresponding sections of Reg. 7 that are proposed for approval in this action to fulfill RACT requirements (see section V.I. of this document).[41]

TABLE 4—SOURCES, EPA REFERENCE DOCUMENTS, AND CORRESPONDING SECTIONS OF REG. 7 PROPOSED FOR APPROVAL TO FULFILL RACT

Source in the DMNFR area	The EPA's reference document or regulation (if applicable)	Reg. 7 sections fulfilling RACT
Combustion turbines	x Emissions from Stationary Combustion Turbines (EPA–453/3–91–026) (1991).	part E, section II.
Process heaters	NO_X Emissions from Process Heaters (EPA–453/R–93–034)(1993).	part E, section II.
Combustion equipment requirements for boilers	NO_X Emissions from Industrial, Commercial & Institutional Boilers (EPA–453/R–94–022)(1994).	part E, section II.
Wood furniture coating requirements	A Guide to the Wood Furniture CTG and NESHAP (EPA–453/R–97–002) (1997).	part C, section I.O.
Foam manufacturing		part E, section V.

We have reviewed the emission limitations and control requirements for the source categories in Table 4 and compared them to the EPA's regulations, ACT documents, available technical information, and guidelines. The EPA has also evaluated the submitted rules and has determined that they are consistent with the CAA, the EPA's regulations, and the EPA's policies. For more information, see the EPA TSD prepared in conjunction with this action. Based on the information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we propose to find that the control requirements for the source categories identified in Table 4 are RACT for all affected sources in the DMNFR Area under the 2008 8-hour ozone NAAQS.

c. Negative Declarations

States are not required to adopt RACT limits for source categories for which no sources exist in a nonattainment area, and can submit a negative declaration to that effect. The EPA approved the majority of the State's negative declarations on July 3, 2018.[59] In its 2008 Serious OAP, Colorado reevaluated the CTGs and determined that it does not have sources in the following CTG VOC categories or subject to the potentially applicable CTG within the DMNFR Area that are listed in Table 5. We are also unaware of any such facilities operating in the Area, and thus we propose to approve the negative declarations made for the CTG categories in Table 5 for the DMNFR Area under the 2008 8-hour ozone NAAQS.

TABLE 5—NEGATIVE DECLARATIONS FOR CTG VOC CATEGORIES

Auto and Light-Duty Truck Assembly Coatings (2008).
Coating Operations at Aerospace Manufacturing and Rework Operations (1994).
Factory Surface Coating of Flat Wood Paneling.
Fiberglass Boat Manufacturing Materials (2008).
Flat Wood Paneling Coatings (2006).
Flexible Packaging Printing Materials (2006).
Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment (1984).
Graphic Arts—Rotogravure and Flexography (1978).
Large Appliance Coatings (2007).
Large Petroleum Dry Cleaners (1982).
Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
Manufacture of Pneumatic Rubber Tires (1972).
Miscellaneous Industrial Adhesives (2008).
Plastic Parts Coatings, Tables 3, 4, 8, and 9 of the CTG (2008).
Synthetic Organic Chemical Manufacturing Air Oxidation Processes (1984).
Synthetic Organic Chemical Manufacturing Distillation and Reactor Processes (1993).
Surface Coating for Insulation of Magnet Wire (1977).
Shipbuilding/repair (1996).
Surface Coating of Automobiles and Light Duty Trucks (1977).
Surface Coating of Fabrics (1977).
Surface Coating of Large Appliances (1977).
Surface Coating of Paper (2007).

D. Reasonably Available Control Measures (RACM) Analysis

1. Background

CAA section 172(c)(1) of the CAA requires that states adopt ''all reasonably available control measures [RACM] as expeditiously as practicable.'' The EPA interprets the CAA RACM provision to require a demonstration that: (1) The state has adopted all reasonable measures (including RACT) to meet RFP requirements and to demonstrate attainment as expeditiously as possible; and (2) no additional measures that are reasonably available will advance the attainment date or contribute to RFP for the area.[60] States should consider all available measures, including those being implemented in other areas, but must adopt measures for an area only if those measures are economically and technologically feasible and will advance the attainment date or are necessary for RFP.[61] Potentially available measures that would not advance the attainment date for an area are not considered RACM; likewise, states can reject potential RACM if adopting them would cause substantial widespread and long-term adverse impacts.[62] Local conditions, such as economic or implementation concerns, may also be considered. To allow the EPA to determine whether the RACM requirement has been satisfied, states

[59] *See* 83 FR 31068. A negative declaration for the aerospace CTG was approved on November 5, 2021 (86 FR 61071).

[60] 40 CFR 51.912(d); Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2, 70 FR 71612, 71659 (Nov. 29, 2005). See also General Preamble, State Implementation Plans; General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990, 57 FR 13498, 13560 (April 16, 1992).

[61] 80 FR 12264, 12282 (March 6, 2015).

[62] *Id.*

should discuss in the SIP submittals whether measures ''within the arena of potentially reasonable measures'' are in fact reasonably available.[63] If the measures are reasonably available, they must be adopted as RACM.

2. Evaluation

Colorado previously evaluated potentially available control measures for RACM purposes with their 2008 Moderate ozone attainment plan. The EPA approved the State's RACM analysis on July 3, 2018.[64] The RAQC resumed RACM discussions with the CDPHE and other partners in 2018 when the DMNFR Area was reclassified to Serious, so as to identify strategies that would help the Area attain by the 2020 ozone season.[65] Areas of analysis included stationary and area sources, mobile sources and fuels, transportation, land use, pricing, and outreach. Subcommittee meetings were open to the public, and stakeholders provided input on the topics discussed.

The State's RACM review took place in the context of a series of state actions that had the effect of reducing emissions. Since the base year of 2011, Colorado has adopted oil and gas regulations; [66] implemented controls required under the State Clean Air Clean Jobs Act [67] through the Regional Haze SIP; and continued alternative fuels,[68] transportation,[69] and land use programs.[70] Additional efforts include the ongoing work of the Statewide Hydrocarbon Emissions Reduction Team and Pneumatics Task Force, and numerous bills aimed at improving air quality.[71]

As part of the RACM analysis, CDPHE examined emission reduction measures [72] being implemented in the DMNFR Area that are not included in the SIP modeling and emissions inventory because they are voluntary or difficult to quantify. Non-federally enforceable emission reduction measures were evaluated for stationary and mobile sources, lawn and garden equipment, and the transportation system; outreach and education were also evaluated as part of this analysis. Additionally, Colorado evaluated CAA 108(f), transportation measures [73] to determine whether sources have applied RACM.

After reviewing possible measures, Colorado determined that all reasonably available control measures necessary to demonstrate attainment are currently being implemented. Table 47 of Colorado's OAP lists control measures included in Colorado's SIP as they relate to the State's 2017 and 2020 emission inventories, photochemical modeling in the attainment demonstration, and weight of evidence analysis.

Emission measures that were evaluated but determined not to be RACM are discussed in chapter 7.5 of the OAP. Colorado used the following criteria to determine whether measures were considered RACM:

- Necessary to demonstrate attainment;
- Technologically or economically feasible;
- Implemented successfully in other Serious nonattainment areas;
- Could be implemented by May 1, 2020; and
- Could qualify as SIP measures by being quantifiable, enforceable, permanent, and surplus.

Emission reduction measures evaluated for RACM were broken into various categories: oil and gas, mobile source inspection and maintenance, fuels, transportation, local government policies, outreach, land use, and other. Table 54 of the OAP summarizes the measures evaluated and Colorado's RACM determination for each measure. Colorado also reviewed the EPA's Menu of Control Measures for NAAQS Implementation [74] and voluntary and mandatory control measures in other ozone nonattainment areas. Table 55 of the OAP lists control measures identified, and indicates which measures were included in the State's RACM review. Although Colorado's analysis demonstrated that none of the additional measures identified met the criteria for RACM, the State plans to continue evaluating strategies in various areas, including oil and gas, mobile source inspection and maintenance, fuels, transportation, and local government policies, as described in Table 54 of the OAP.

In its analysis, Colorado evaluated all source categories that could contribute meaningful emission reductions, and identified and evaluated an extensive list of potential control measures. To determine reasonableness and availability, the State considered the time needed to develop and adopt regulations, and the time it would take to see the benefit from these measures. The EPA has reviewed the RACM analysis and finds that there are no additional RACM that would have advanced the Serious area attainment date of 2021 for the DMNFR Area.[75] Therefore, the EPA proposes to approve Colorado's Serious area RACM analysis for the DMNFR Serious nonattainment area.

E. Motor Vehicle Inspection and Maintenance Program (I/M) Program

1. Background

As a Serious ozone nonattainment area, pursuant to CAA section 182(c)(3), Colorado was required to implement an enhanced I/M program in the DMNFR Area.[76] Colorado's Regulation Number 11 (Reg. 11) is titled ''Motor Vehicle Emissions Inspection Program,'' and addresses the implementation of the State's I/M program.[77] Under Reg. 11 and other state law,[78] all eligible automobiles registered in the Automobile Inspection and Readjustment (AIR) program area [79] are subject to periodic emissions inspection. Currently there is an exemption from emissions inspection requirements for the first seven model years. Thereafter, an On-Board-Diagnostics (OBD) vehicle computer inspection is conducted during the first two inspection cycles (vehicles 8 through 11 model years old). Vehicles older than 11 model years are given a dynamometer-based IM240 test for 1982 and newer light-duty gasoline vehicles [80] and a two-speed idle test

[63] ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, EPA (Nov. 30, 1999).

[64] *See* 83 FR 31068.

[65] S*ee* p. 7–3 of the OAP.

[66] Colorado Reg. 7, part D.

[67] Colo. Rev. Stat. section 40–3.2–201 *et seq.*

[68] *E.g.,* fueling and charging station grants.

[69] *E.g.,* Programs for improved public transit.

[70] *E.g.,* example, Denver Regional Council of Governments identified urban growth area.

[71] *See* p. 7–3 of the OAP.

[72] S*ee* Table 48 of the OAP.

[73] S*ee* Table 52 of the OAP.

[74] The Menu of Control Measures gives state, local and tribal air agencies information on existing emissions reduction measures, as well as relevant information concerning the efficiency and cost effectiveness of the measures. Available at *https://www.epa.gov/air-quality-implementation-plans/menu-control-measures-naaqs-implementation.*

[75] On October 7, 2022 the EPA finalized an action that among other things reclassified the DMNFR Area to Severe nonattainment status for the 2008 ozone NAAQS. *See* Final rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Serious for the 2008 Ozone National Ambient Air Quality Standards, 87 FR 60926. Accordingly, the State of Colorado will be required to submit a demonstration that the area will attain the Severe standard, and other elements of a Severe SIP.

[76] 5 CCR 1001–13.

[77] The provisions which have been approved by the EPA into the Colorado SIP via past rulemaking actions, including Reg. 11, are publicly available at *https://www.epa.gov/sips-co/epa-approved-statutes-and-regulations-colorado-sip.*

[78] CO Rev Stat section 42–4–304 (2016).

[79] The current nine-county AIR program area is depicted in chapter 8, figure 19, page 8–3 of the OAP.

[80] *See* 40 CFR part 51, subpart S for a complete description of EPA's IM240 test. The IM240 test is

Continued

(TSI)[81] for 1981 and older light-duty gasoline vehicles. To improve motorist convenience and reduce program implementation costs, the State also administers a remote sensing-based ''Clean Screen'' program component of the I/M program. Remote sensing is a method for measuring vehicle emissions, while simultaneously photographing the license plate, when a vehicle passes through infrared or ultraviolet beams of light. Owners of vehicles meeting the Clean Screen criteria are notified by the respective County Clerk that their vehicle has passed the motor vehicle inspection process and are exempt from their next regularly scheduled program inspection.[82]

2. Evaluation

The AIR program and Reg. 11 were expanded into portions of Larimer and Weld counties as ''state only'' requirements in the Colorado 2009 Legislative session, with the passage of Senate Bill 09–003. The startup date of the I/M program in these two counties was November 1, 2010. The purpose of this expansion of the AIR program and Reg. 11 into portions of Larimer and Weld counties was to further reduce vehicle emissions of NO_X and VOC ozone precursors in the 2008 DMNFR Area. With the reclassification of the DMNFR Area to Moderate for the 2008 8-hour ozone NAAQS, and in light of the associated CAA requirements, the State chose to submit the I/M program in Larimer and Weld counties into the SIP. Accordingly, as part of Moderate Area SIP revisions for the 2008 8-hour ozone NAAQS, Colorado removed the Larimer/Weld ''state-only'' designation in Reg. 11 and submitted a revised Reg. 11 to the EPA, which was approved July 3, 2018.[83]

The most recent federally approved revisions to the Reg. 11 enhanced I/M program were adopted by the AQCC in May 2017. The revisions consisted of:

- Inclusion of OBD I/M pass/fail results as a qualifying consideration in the remote sensing clean screen low emitter index,
- Clarification of details of tailpipe and OBD inspection procedures and OBD readiness criteria, and
- Establishing authority to fail vehicles exhibiting evidence of OBD fraud.

These revisions were approved by EPA on February 7, 2019.[84]

On July 15, 2022, Colorado submitted supplemental modeling of the State's I/M program for comparison against the applicable Enhanced I/M performance standard requirements in 40 CFR part 51, subpart S. Colorado used the latest approved version of the EPA's mobile source emissions model, MOVES3.0.3 (released January 2022), for the comparative analysis. Demonstration of program equivalency to the enhanced I/M program standard was conducted in accordance with the EPA's published I/M performance standard modeling guidance, MOVES3 technical guidance, and additional technical guidance from the EPA as necessary.[85]

To demonstrate that the Colorado enhanced I/M program meets the enhanced program performance standard described in 40 CFR 51.351(i), the Colorado program must be modeled to show that, on the proper analysis date, it obtains the same or lower emissions reductions as the federal model enhanced program. The state program may provide reductions of NAAQS relevant pollutants equivalent to the reductions expected from the model program to within ±0.02 grams per mile for the area's total vehicle miles travelled on a July weekday in the attainment date year. Colorado's supplemental demonstration shows that the state's I/M program meets the applicable enhanced I/M performance standard requirements for the 2008 ozone NAAQS.

Based on our review and as discussed above we find that Colorado has a Vehicle I/M Program that meets the performance standard for Enhanced I/M, and we therefore propose approval of this portion of the OAP.

F. Nonattainment New Source Review (NNSR)

1. Background

As a Serious ozone nonattainment area, Colorado was required to implement an NNSR program. Applicable NNSR requirements for ozone nonattainment areas are described in CAA section 182 and further defined in 40 CFR part 51, subpart I (Review of New Sources and Modifications). Under these requirements, new major sources and major modifications at existing sources must achieve the lowest achievable emission rate (LAER) and obtain emission offsets in an amount based on the specific ozone nonattainment classification. The emission offset ratio required for Serious ozone nonattainment areas is 1.2 to 1.[86]

2. Evaluation

The Colorado SIP includes Regulation 3, part D, section V.A. (Concerning Major Stationary Source New Source Review and Prevention of Significant Deterioration, Requirements Applicable to Nonattainment Areas).[87] This provision requires new major sources and major modifications at existing sources in the DMNFR Area to comply with LAER and obtain emission offsets at the Serious classification ratio of 1.2 to 1. The EPA approved these provisions on January 25, 2016.[88] Since the provisions in the Colorado SIP satisfy the CAA NNSR requirements for ozone nonattainment areas classified as Serious, we propose approval of this portion of the OAP.

essentially an enhanced motor vehicle emissions test to measure mass tailpipe emissions while the vehicle follows a computer-generated driving cycle trace for 240 seconds and while the vehicle is on a dynamometer.

[81] *See* 40 CFR part 51, subpart S for a complete description of EPA's two-speed idle test. The two-speed idle test essentially measures the mass tailpipe emissions of a stationary vehicle; one reading is at a normal idle of approximately 700 to 800 engine revolutions per minute (RPM) and one reading at 2,500 RPM.

[82] The Clean Screen program component of Reg. 11 was originally approved for implementation in the Denver area with the EPA's approval of the original Denver carbon monoxide (CO) redesignation to attainment and the related maintenance plan. *See* 66 FR 64751 (Dec. 14, 2001). The Clean Screen criteria approved in 2001 required two valid passing remote sensing readings, on different days or from different sensors and within the twelve-month period prior to that vehicle's registration renewal date. Colorado revised Reg. 11 to expand the definition and requirements for a ''clean-screened vehicle'' to also include vehicles identified as low-emitting vehicles in the state-determined Low Emitting Index (LEI) that have one passing remote sensing reading, before the vehicle's registration renewal date. These improvements and other associated revisions to the Clean Screen program were approved by the EPA on October 21, 2016 (81 FR 72720).

[83] 83 FR 31068.

[84] 84 FR 2449. Colorado submitted the latest revisions to Reg. 11 to the EPA on May 16, 2022. The EPA will act on those revisions in a separate action. Since these most recent changes to Reg. 11 were adopted by the State after the attainment date for Serious areas under the 2008 ozone NAAQS, the revisions were not considered when evaluating the adequacy of Colorado's enhanced I/M program in the context of this current EPA action.

[85] See Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model, EPA–420–B–14–006 (Jan. 2014), available at *http://nepis.epa.gov/Exe/ZyPdf.cgi?Dockey=P100HHMP.pdf;* MOVES3 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity, EPA–420–B–20–052 (Nov. 2020), available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010LY2.pdf.*

[86] CAA section 182(c)(10).

[87] The provisions which have been approved by the EPA into the Colorado SIP via past rulemaking actions, including Regulation Number 3, are publicly available at *https://www.epa.gov/sips-co/epa-approved-statutes-and-regulations-colorado-sip.*

[88] 81 FR 3963.

G. Motor Vehicle Emissions Budget (MVEB)/Transportation Conformity

1. Background

Section 176(c) of the CAA establishes a requirement known as ''Transportation Conformity,'' under which federal agencies must ensure that actions they support or fund will conform to the applicable SIP. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.[89] The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs, and projects conform to SIPs, and establishes the criteria and procedures for determining whether they conform. The conformity rule requires a demonstration that emissions from the Metropolitan Planning Organization's (MPO) Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the MVEB in the control strategy SIP revision or maintenance plan.[90] The MVEBs are defined as the portion allocated to mobile source emissions out of the total allowable emissions of a pollutant defined in the SIP for a certain date for the purpose of demonstrating attainment or maintenance of the NAAQS or for meeting RFP milestones.[91]

Additionally, CAA section 182(c)(5) requires that states, every three years, submit a demonstration for Serious nonattainment areas that current aggregate VMT, aggregate vehicle emissions, congestion levels, and other relevant traffic-related and vehicle emissions-related factors (collectively ''relevant parameters'') are consistent with those used for the area's ozone attainment demonstration.

2. Evaluation

Colorado derived the MVEBs for NO_X and VOCs from its 2020 DMNFR Serious attainment demonstration, and defined the MVEBs in chapter 11, section 11.2.1 of the OAP.

TABLE 6—2020 NO_X AND VOC MVEBS FOR DMNFR AREA

Area of applicability	2020 NO_X emissions (tpd)	2020 VOC emissions (tpd)
Northern Subarea	9.7	8.2
Southern Subarea	45	41.2
Total Nonattainment Area	54.7	49.4

These MVEBs are consistent with, and clearly related to, the emissions inventory and the control measures in the SIP, and satisfy the criteria at 40 CFR 93.118(e)(4). Therefore, we propose approval of the MVEBs as reflected in Table 6. This proposed approval applies to the Northern Subarea and Southern Subarea MVEBs as well as the Total Nonattainment Area MVEBs. The transportation conformity subareas are defined in chapter 11, section 11.2 of the OAP and are listed below.

- The Northern Subarea is the area denoted by the ozone nonattainment area north of the Boulder County northern boundary and extended through southern Weld County to the Morgan County line. This area includes the North Front Range MPO's (NFRMPO) regional planning area as well as part of the Upper Front Range Transportation Planning Region (TPR) in Larimer and Weld counties.
- The Southern Subarea is the area denoted by the ozone nonattainment area south of the Boulder County northern boundary and extended through southern Weld County to the Morgan County line. This area includes the nonattainment portion of the Denver Regional Council of Governments (DRCOG) regional planning area and the southern Weld County portion of the Upper Front Range TPR.
- Both subareas are further described in the OAP in Figure 20, ''8-hour Ozone Nonattainment Area Subareas.''

In addition to proposing approval of the MVEBs, we also propose to approve the process described in chapter 11, section 11.2.3 in the OAP for the use of the Total Nonattainment Area MVEBs or the subarea MVEBs for the respective MPOs to determine transportation conformity for their respective RTP. As described in section 11.2.3 of Colorado's OAP, the OAP identifies subarea MVEBs for DRCOG and the NFRMPO. These SIP-identified subarea MVEBs allow either MPO to make independent conformity determinations for the applicable subarea MVEBs whose frequency and timing needs for conformity determinations differ. As noted in section 11.2.3, DRCOG and the NFRMPO may switch from using the Total Nonattainment Area MVEBs to using the subarea MVEBs for determining conformity. To switch to use of the subarea MVEBs (or to subsequently switch back to use of the Total Nonattainment Area MVEBs) DRCOG and the NFRMPO must use the process described in the DMNFR OAP in section 11.2.3.[92] This process of demonstrating transportation conformity to the total or subarea area MVEBs, as described in section 11.2.3 of the OAP, was previously approved by the EPA for the Denver Moderate Ozone Plan for the 2008 8-hour standard on July 3, 2018.[93] Now, as to the Serious classification for the 2008 8-hour standard, the EPA finds that this process remains consistent with the CAA and with applicable EPA regulations, and therefore proposes to approve it.

Regarding transportation control requirements, as described in section 11.3 of the OAP, MVEBs are evaluated on a regular basis by the MPOs through their conformity process. Based on the most recent conformity determinations for the northern and the southern subregions, Colorado's demonstration shows that both areas were meeting the current emissions budgets established in the 2008 Moderate area Ozone SIP, and that they are expected be able to meet the proposed budgets for the 2008 Serious area Ozone SIP in future conformity determinations. The EPA finds that the transportation control measures as described in section 11.3 of the OAP meet CAA requirements. We therefore propose to approve this section of the OAP.

[89] CAA section 176(c)(1)(B).

[90] 40 CFR 93.101, 93.118, and 93.124.

[91] 40 CFR 93.101; *see* 40 CFR 93.118 and 93.124 for criteria and other requirements related to MVEBs. Further discussion of MVEBs is in the preamble to the transportation conformity rule. 58 FR 62188, 62193–62196 (Nov. 24, 1993).

[92] See pp. 11–5 and 11–6 of the OAP.

[93] 83 FR 31068.

H. Clean Fuel Fleet Program

1. Background

Sections 182(c)(4) and 241–246 of the CAA provide that states with ozone nonattainment areas classified as Serious, Severe, or Extreme must implement a federally enforceable program to require certain centrally fueled fleet operators to include a specified percentage of clean-fuel vehicles (CFV) in their new fleet purchases to reduce emissions of ozone precursors, or else to engage in a state-managed credit trading scheme with other fleet operators who purchase CFV in excess to requirements. Section 182(c)(4) of the Act also allows states subject to the clean-fuel fleet program requirements to develop substitute programs to achieve equivalent reductions to those achieved by the default program requirements for the covered nonattainment area, and to submit them to the EPA for approval.[94]

2. Evaluation

In the OAP, Colorado cited an EPA determination [95] that, beginning with the 2007 model years, both the Tier 2 conventional vehicle and engine standards and heavy-duty vehicle and engine standards are either equivalent to or more stringent than the applicable clean fuel vehicle program low emission vehicle (LEV) standards. Table 59 of the OAP includes a clean fuel fleet emission comparison demonstrating that Tier 2 and 2004 heavy-duty engine standards are equivalent or more stringent than the Clean Fuel Fleet standards and that the emission reductions from the federal standards surpassed LEV emission reductions in 2004, when the federal standards were implemented. Additionally, figure 23 of the OAP provides a comparison of Tier 3 Motor Vehicle Emission and Fuel Standards program that illustrates even larger emission reductions over CFV standards.

The EPA amended the Clean Fuel Fleet standards in 40 CFR part 88 in 2021 to address the fact that current emissions standards for engines and vehicles are either more stringent than or equivalent to the Clean Fuel Fleet standards.[96] According to these amendments, all new fleet purchases of vehicles and engines certified to current emission standards are deemed to meet the Clean Fuel Fleet standards as Ultra Low-Emission Vehicles.

Because 2004 model year Heavy Duty Diesel and Tier II and III vehicle standards meet or exceed the CFV LEV standards, we propose to find that Colorado meets the Federal Clean Fuel Fleet Program requirements, and to approve that portion of the submittal that addresses the requirements of section 182(c)(4) of the CAA.

I. SIP Control Measures

1. Background

This section describes revisions to Colorado Regs. 7 and 21 submitted as a part of the SIP, including emission control requirements for oil and gas operations; turbines, process heaters, and other combustion equipment, foam manufacturing; architectural coatings and consumer products. The revisions also establish RACT requirements for emission points at certain CTGs and major sources of VOC and NO_X in the DMNFR Area.

Colorado's Reg. 7, entitled ''Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions,'' contains general RACT requirements as well as specific emission limits applicable to various industries. The EPA approved the repeal and re-promulgation of Reg. 7 in 1981,[97] and has approved various revisions to Reg. 7 over the years. In 2008, the EPA approved revisions to the control requirements for condensate storage tanks in section XII,[98] and later approved revisions to Reg. 7, sections I through XI and sections XIII through XVI.[99] The EPA also approved Reg. 7 revisions to section XVII.E.3.a establishing control requirements for rich-burn reciprocating internal combustion engines.[100] In 2018 the EPA approved Reg. 7 revisions in sections XII (VOC emissions from oil and gas operations) and XIII (emission control requirements for VOC emissions from graphic art and printing processes), as well as non-substantive revisions to numerous other parts of the regulation.[101]

In February 2021, the EPA approved Reg. 7 revisions in sections I (Applicability), IX (Surface Coating Operations), X (Use of Cleaning Solvents), XIII (Graphics Arts and Printing), XVI (Controls of Emissions from Stationary and Portable Engines and Other Combustion Equipment in the 8-Hour Ozone Control Area), and XIX (Control of Emissions from Specific Major Sources of VOC and/or NO_X in the 8-hour Ozone Control Area). Revisions to incorporation by reference dates to rules and reference methods in sections II, VI, VIII, IX, X, XII, XIII, XVI and XVII were also approved, as well as non-substantive revisions to numerous other parts of the regulation.[102]

In November 2021, the EPA approved submitted revisions to sections II (general provisions), XII (Volatile Organic Compound Emissions from Oil and Gas Operations), and XVIII (emissions from natural gas-actuated pneumatic controllers located at or upstream of natural gas processing plants) of Reg. 7 from State submissions in 2018 and 2019.[103] From the State's 2020 submission, the EPA approved revisions that fully reorganized Reg. 7. into parts A–E; updated requirements for gasoline transport trucks, bulk terminals, and service stations in part B; added general solvent use requirements in part C, section II.F; and added stationary internal combustion engine and flare RACT requirements for major sources of VOC and/or NO_X in the Denver Area in part E. Revisions to incorporation by reference dates to rules, updates to reference methods, and typographical, grammatical and formatting corrections were made throughout Reg. 7. Additionally, the EPA finalized approval of the State's negative declaration—(that is, its statement that there are no covered sources in the DMNFR Area) as to the aerospace CTG.

Most recently, in May 2022, the EPA conditionally approved AQCC regulations of ozone precursor and hydrocarbon emissions from oil and gas operations in sections XII.J.1 of Reg. 7 from the State's May 14, 2018 submittal and part D, sections I.D., I.E., I.F., and I.J.1. of Reg. 7 from the State's May 13, 2020 submission.[104] Additionally, the EPA conditionally approved Colorado's determination that Reg. 7, part D satisfies RACT requirements for the

[94] Final rule, Emission Standards for Clean-Fuel Vehicles and Engines, Requirements for Clean-Fuel Vehicle Conversions, and California Pilot Test Program, 59 FR 50042 (Sept. 30, 1994).

[95] See EPA Dear Manufacturer Letter CCD–05 (LDV/LDT/MDPV/HDV/HDE/LD–FC), July 21, 2005, in the docket for this rulemaking.

[96] Final rule, Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and Other Technical Amendments 86 FR 34308 (June 29, 2021).

[97] Final rule, Colorado: Approval and Promulgation of State Implementation Plans, 46 FR 16687 (March 13, 1981).

[98] Final rule, Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Regulation No. 7, section XII, Volatile Organic Compounds From Oil and Gas Operations, 73 FR 8194 (Feb. 13, 2008).

[99] Final rule, Approval and Promulgation of State Implementation Plans; State of Colorado; Attainment Demonstration for the 1997 8-Hour Ozone Standard, and Approval of Related Revisions, 76 FR 47443 (Aug. 5, 2011).

[100] Final rule, Approval and Promulgation of Implementation Plans; State of Colorado; Regional Haze State Implementation Plan, 77 FR 76871 (Dec. 31, 2012).

[101] *See* 83 FR 31068, 31071.

[102] 86 FR 11125.

[103] 86 FR 61071.

[104] 87 FR 29228 (May 13, 2022).

Colorado ozone SIP for the 2016 oil and natural gas CTG.

Colorado submitted new regulation number 21 (Reg. 21) on May 13, 2020, and revised Reg. 7 revisions with the OAP on March 22, 2021, and subsequent revisions on May 18, 2021 and May 20, 2022. The 2020 submittal includes new Reg. 21, which establishes VOC content limits in architectural coatings and consumer products. The 2022 revisions in Reg. 7, part C, section I.O and part E, sections II.A., III.B., and V. address RACT for major sources with VOC and/or NO_X emissions equal to or greater than 50 tpy; specifically, for wood surface coatings operations, boilers, turbines, process heaters, landfill gas and biogas fired engines,[105] and foam manufacturing. The 2021 submittals include revisions to Reg. 7, part D, sections I.E.3., I.J.1., and III.B to address oil and gas CTG requirements, and clerical revisions in parts C, sections I.A., I.L., and E, sections II.A. Colorado made substantive SIP revisions to Reg. 21 and certain limited parts of Reg. 7, particularly part C, sections I.O. and I.L.; part D, sections I.E.3. and I.J.1; and part E, sections, II.A.1.c., II.A.3.p, II.A.4.b.(i), II.A.4.b.(iv), II.A.4.f., II.A.4.g, II.A.5.a.(iii), II.A.5.b.(ii)(B), II.A.5.b.(ii)(B), II.A.5.b.(ii)(C)(4), II.A.5.c.(i)(A), II.A.6.b.(viii)(E), and V. The State also made non-substantive revisions to numerous parts of Reg. 7. For ease of review, Colorado submitted the full text of Reg. 7 and Reg. 21 as a SIP revision (with the exception of provisions designated ''State Only''). The EPA is only seeking comment on Colorado's proposed substantive changes to the SIP-approved version of Reg. 7, which are described below. We are not seeking comment on incorporation into the SIP of the revised portions of the regulation that were previously approved into the SIP and have not been substantively modified by the State as part of this submission.

As noted above, Colorado designated various parts of Reg. 7 and Reg. 21 ''State Only'' and in Reg. 7, section I.A.1.c and Reg. 21, section I.A.2. indicated that sections designated State Only are not federally enforceable. The EPA concludes that provisions designated State Only have not been submitted for EPA approval, but for informational purposes. Hence, the EPA is not proposing to act on the portions of Regs. 7 or 21 designated State Only, and this proposed rule does not discuss them further except as relevant to discussion of the portions of the regulation that Colorado intended to be federally enforceable.

2. Evaluation

a. Analysis of Reg. 21 Changes in May 13, 2020 Submittal

The EPA proposes to approve the changes made to Reg. 21 with Colorado's May 13, 2020 submission.

(i) Part A

Part A of Reg. 21 establishes new rules for limiting VOC emissions from consumer products as of May 1, 2020. ''Consumer products,'' as defined in section VI.GG., ''means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; automotive specialty products; and aerosol adhesives. Consumer product does not include other paint products, furniture coatings, or architectural coatings.'' [106] Section I contains the applicability requirements. The rules apply to people who sell, supply, offer for sale, distribute for sale, or manufacture for sale consumer products in the 8-hour ozone control area. Section I.B. includes a number of exemptions from the requirements in section A, such exemptions for consumer products that are manufactured in Colorado solely for shipment and use outside of Colorado, and for consumer products that have been granted an Innovative Product exemption, an Alternative Control Plan (ACP), or a variance under the Variances provisions by the California Air Resources Board (CARB).

Table 1 in section II establishes VOC content limits for manufacturing, selling, suppling, offering for sale, and distributing consumer products. Additional standards in section II include labeling, certification, and VOC limit applicability requirements for consumer products. Section II.J. includes a list of chemicals that consumer products cannot contain. Section II.K. includes a list of consumer products that cannot contain trichloroethylene in a combined amount greater than 0.01 percent by weight. Table 1 in Part A includes the VOC content limits for consumer products manufactured on or after May 1, 2020.

Section III of part A contains container labeling requirements, including a requirement for clear display of dates that products were manufactured or date codes representing the date of manufacture on containers or packages; special purpose spray adhesive classification requirements; and dilution ratios for non-aerosol floor wax strippers. Sections III.E and F. include label display requirements for energized electrical cleaner and zinc rich primers. Under section III.F aerosol adhesives, adhesive removers, electronic cleaners, electrical cleaners, energized electrical cleaners, and content products must include the product category, applicable VOC standard for the product as a percentage by weight, and the applicable substrate and/or application for special purpose spray adhesives on labels.

Section IV contains reporting requirements to demonstrate compliance with the applicability and standards requirements in part A. These include maintaining records necessary to demonstrate exemptions under section I.B and of the para-dichlorobenzene content of solid air freshener, insecticide, or toilet/urinal care consumer products. Records must be maintained for a minimum of three years and made available to the Division upon request. Section IV.D. includes a list of information that must be reported to the Division within 90 days of written notice. This information includes the names and contact information of responsible parties, consumer product brand names for each product label and category, Colorado sales in pounds per year, and the net percent by weight of total product.

Section V includes test methods that should be used to determine compliance with the requirements in part A (CARB Method 310 or through calculation of the VOC content from records of the amounts of constituents used to make the product) and whether a product is a liquid or solid (ASTM D4359–90(2000)e). Section VI contains a list of definitions used throughout part A. We propose to find that the provisions in part A are consistent with CAA requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part. A.

(ii) Part B

Part B of Reg. 21 establishes new rules for limiting VOC emissions from architectural or industrial maintenance (AIM) coatings as of May 1, 2020. Architectural coating, as defined in section VI.F., ''means a coating to be applied to stationary structures or their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Architectural coating does not include

[105] The EPA will be acting on the State's RACT determination for landfill and biogas fired engines in a separate action.

[106] See p. 260 of the May 13, 2020 submittal.

coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, and automobiles, as well as adhesives.'' [107] Industrial maintenance coatings, as defined in section VI.DD., ''means a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates, including floors, and exposed to one or more of the following extreme environmental conditions: immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation; acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions; frequent exposure to temperatures above 121°C (250 °F); frequent heavy abrasion, including mechanical wear and scrubbing with industrial solvents, cleansers, or scouring agents; or exterior exposure of metal structures and structural components. Industrial maintenance coatings must be labeled as specified in part B, section III.D.1.'' [108]

Section I contains the applicability requirements. The rules apply to people who sell, supply, offer for sale, distribute for sale, or manufacture for sale AIM coatings in the 8-hour ozone control area. Section I.B. includes a number of exemptions from the requirements in section B including AIM coatings that are manufactured in Colorado solely for shipment and use outside of Colorado; aerosol coating products, and AIM coatings that are sold in containers with a volume of one liter or less.

Table 1 in section II establishes VOC content limits for manufacturing, blending, suppling, selling, offering for sale, and soliciting for application AIM coatings. Section III of part B includes container labeling requirements including clearly displaying dates that products were manufactured or date codes representing the date of manufacture on containers, a statement of the manufacturer's recommendation regarding thinning of the coating, and the VOC content in grams per liter of coating. Section III.D. includes a list of statements that should be displayed on container labels, such as ''for industrial use only,'' ''for blocking stains,'' ''high gloss,'' and ''for metal substrates only.''

Section IV contains a list of information that must be reported to the Division within 180 days of written notice to demonstrate compliance with part B requirements. This information includes the names and mailing address of manufacturers, the names of the coatings products as they appear on the labels and the application coating categories, the VOC content in gram per liter as determined in accordance with section V, and the density of the products in pounds per gallon.

Section V includes test methods that should be used to determine compliance with the requirements in part B. Section V.A. describes the process for determining the VOC content of a coating. Section VI. contains a list of definitions used throughout part B. We propose to find that the provisions in part B are consistent with CAA requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part B.

b. Analysis of Reg. 7 Changes in March 22, 2021 Submittal

The EPA proposes to approve the following changes made to Reg. 7 with Colorado's March 22, 2021 submission.

(i) Part C, Section I

Section I of part C contains rules for surface coating operations. In this submittal, the Commission expanded Section I.O wood furniture surface coating requirements to the surface coatings of other wood products such as doors, door casings, and decorative wood accents. The provisions apply to other wood products coating operations with uncontrolled actual emissions greater than or equal to 50 tpy located in the DMNFR Area. A detailed evaluation of section I is in the TSD for this action. We propose to find that the provisions in part C are consistent with CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part. C.

(ii) Part E, Section II

Section II of part E contains rules for the control of emissions from stationary and portable combustion equipment in the DMNFR Area. The revisions in art E include RACT requirements for 50 tpy major sources of VOC and/or NO_X including a NO_X emission limit for boilers between 50 MMBtu/hr and 100 MMBtu/hr, a NO_X emission limit for landfill gas or biogas fired engines,[109] and NO_X emission limits for combustion turbines.

Section II.A.4.a.(iv) expands categorical boiler RACT requirements for 50–100 MMBtu/hr boilers at 50 tpy major sources to comply with a 0.1 lb/MMBtu NO_X emission limit. The owners or operators of these boilers will continue to comply with the combustion process adjustment, periodic performance testing, and recordkeeping requirements in section II.

Section II.A.4.b.(i)(A) was revised to reference NSPS KKKK NO_X emission limits for the turbines constructed before February 18, 2005. These emission limits are included in Table 1 of section II.A.4.b. Section II.A.4.b.(i)(A)(1) requires that turbines with CEMS that are capable of operating in both combined and simple cycle modes show compliance with a 30-day rolling average. Section II.A.4.b.(iv) adds a new requirement for turbines, air pollution control equipment, and monitoring equipment to be operated with good air pollution control practices for minimizing emissions. Section II.A.5.c.(i)(A) includes monitoring requirements for pre and post February 18, 2005 turbines.

A detailed evaluation of section II is in the TSD for this action. We propose to find that the provisions in section II are consistent with CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part E, section II.

(iii) Part E, Section V

Section V of part E contains new rules for the control of emissions from foam manufacturing in the DMNFR Area as of January 27, 2020. Foam manufacturing operation, as defined in section V.A.3.e., ''means any expanded polystyrene (EPS) production line, or portion of a production line, which processes raw EPS bead into final molded EPS product. Production line processes include, but are not limited to pre-expansion, aging (pre-puff), and molding. The manufacturing process ends after the product exits the EPS mold. 'Foam manufacturing operation' also means any production line processing methylene diphenyl diisocyanate (MDI), resins, and various hardeners and thickeners into foam products and which results in VOC emissions into the atmosphere. The manufacturing process ends after the product exits the drying tunnel.'' Section V.A.3. includes a list of definitions used in section V.

Section V.A.4. establishes emission limits for foam manufacturing operations. Operators must limit VOC emissions from foam manufacturing to 3.0 lbs per 100 lbs of total material processed, averaged monthly, or must control VOC emissions from foam

[107] See p. 282 of the May 13, 2020 submittal.

[108] See p. 285 of the May 13, 2020 submittal.

[109] The EPA will be acting on the State's RACT determination for landfill and biogas fired engines in a sperate action.

manufacturing by 90%. Work practice requirements are set forth in section V.A.5. and require that raw materials be stored in closed, leak-free, labeled containers, and in a manner that minimizes evaporation from open containers. Sections V.A.6., 7, and 8 contain monitoring, recordkeeping, and reporting (MRR) requirements, including MRR for performance testing to determine control efficiency of emission control equipment, and requirements to keep records of the amounts of raw material processed on a daily basis, total monthly VOC emissions, and a manufacturer's guarantee of control equipment's emission control efficiencies. Records must be maintained for five years and made available to the Division upon request. Records of performance test protocols for performance tests under Section V.A.6.b. must be submitted to the Division for review at least thirty days before testing.

A detailed evaluation of section V is in the TSD for this action. We propose to find that the provisions in section V are consistent with CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part E, section V.

c. Analysis of Reg. 7 Changes in May 18, 2021 Submittal

The majority of the changes to Reg. 7 from the May 18, 2021 submittal are state-only and therefore have not been submitted for inclusion in the SIP. The SIP revisions from this submittal include editorial revisions to the outline of the regulation and numbering changes to part E, section I.D.4., SIP controls for existing natural gas fired RICE. The revisions are clerical in nature and do not affect the substance of the requirements. Therefore, we propose to approve the changes.

d. Analysis of Reg. 7 Changes in May 20, 2022 Miscellaneous Metals and Process Heaters Submittal

The EPA proposes to approve the changes made to Reg. 7 with Colorado's May 20, 2022 miscellaneous metals and process heaters submittal.

(i) Part C, Section I

Section I of part C contains rules for surface coating operations. The Commission has previously adopted requirements for metal surface coatings based on recommendations in EPA's Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products (1978), including VOC content limits, work practices, and recordkeeping requirements. In 2008, however, the EPA published a subsequent metal coating CTG, Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings (Metal Coating CTG), which recommends expanding the coatings VOC content limits from four to fifty, including work practices, application methods, and recordkeeping. Therefore, in response to EPA's concern with Colorado's existing metal parts coating requirements as based on EPA's 1978 CTG, the Commission revised the metal surface coating requirements in part C, section I to correspond to the recommendations in the 2008 Metal Coating CTG.

The revised section I.L., Manufactured Metal Parts and Metal Products, applies to sources where actual emissions are greater than or equal to 6.8 kilograms (15 lbs) per day and 1.4 kilograms (3 lbs) per hour. Starting January 1, 2022, section I.L requirements applied to metal parts and product surface coating units at facilities where total actual VOC emissions from all metal parts and products surface coating operations are greater than or equal to 2.7 tons per 12-month rolling period, before consideration of controls.

Revised section I.L.1.b. removes a number of exemptions for surface coatings of various metal parts and products: automobiles and light-duty trucks, metal cans, flat metal sheets and strips in the form of rolls or coils, large appliances, magnet wire for use in electrical machinery, and metal furniture. Section I.L.b.(iii) adds categories for which section I.L. does not apply, including certain sources regulated by NSPS and sources that must comply with other sections of the SIP. Section I.L.2.b. includes new requirements for surface coating of manufactured metal parts or metal products facilities and operations. Section I.L.2.b.(i) requires that VOC emissions from coatings and thinners be reduced with an emission control system having a control efficiency of 90% or greater. Additionally, products must comply with the VOC content limits established in Tables 1 and 2 of section I.L.2.b. A number of new definitions were added to section I.L.1.c.

Sections I.L.3. and I.L.4. include application methods and work practice standards that owners and operators must use and follow. These include the use of high-volume low-pressure spray, roller coat, and airless spray; storing all VOC containing coatings, thinners, coating related waste materials, cleaning materials, and used shop towels in closed containers; and minimizing VOC emissions from cleaning of application, storage, mixing, and conveying equipment by cleaning equipment without atomizing the cleaning solvent and capturing spent solvent in closed containers section I.L.5. contains recordkeeping requirements to demonstrate compliance with section I.L. Records must be maintained for a minimum of five years and made available to the Division upon request.

A detailed review of section I.L. is in the TSD for this action. We propose to find that the provisions in section I.L. are consistent with CAA requirements, represent RACT for the emission limits in Table 2 ''Metal Parts and Products VOC Content Limits'' and Table 7 ''Metal Parts and Products VOC Emission Rate Limits'' of the 2008 Miscellaneous Metal Parts and Products CTG, and that they strengthen the SIP. We therefore propose to approve the revisions in part C, section I.[110]

(ii) Part E, Section II

Section II of part E contains rules for the control of emissions from stationary and portable combustion equipment in the 8-hour ozone control area. The Commission revised this section of Reg. 7 to include provisions in the SIP that require the implementation of RACT for process heaters at major sources of NO_X emissions. NO_X emission limits apply to natural gas-fired and refinery gas-fired process heaters with a heat input rate greater than or equal to 5 MMBtu/hr.

Table 2 in section II.A.4.g. contains NO_X emission limits of 0.05 lb/MMBtu for natural gas fired and 0.1 lb/MMBtu for refinery fuel gas fired process heaters with a heat input rate greater than 5 MMBtu/hr. Section II.A.5.a. adds compliance dates for process heaters subject to the section II.A.4.g. requirements. Continuous emission monitoring in section II.A.5.b.(i), performance testing requirements in section II.A.5.b.(ii) were expanded to include section II.A.4.g. process heaters. Section II.A.6.b.(viii)(E) was added to include combustion process adjustment requirements for process heaters.

A detailed evaluation of section II is in the TSD for this action. We propose to find that the provisions in section II

[110] In this action, we are not finalizing the State's determination that RACT for the miscellaneous metal parts CTG has been met, because Colorado has not adopted limits or negative declarations for sources listed in Table 5, Pleasure Craft Surface Coating VOC Content Limits or Table 6, Motor Vehicle Materials VOC Content Limits of the CTG for Miscellaneous Metal and Plastic Parts Coatings, EPA–453/R–08–003 (Sept. 2008). The State is actively working on adopting RACT for these sources. Therefore, we will be acting on these categories in a separate rulemaking.

are consistent with CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the revisions in part E, section II.

e. Analysis of Reg. 7 Changes in May 20, 2022 Part D Definitions Submittal

The majority of the changes to Reg. 7 from the State's May 20, 2022 part D definitions submittal are state-only and therefore have not been submitted for inclusion in the SIP. The SIP revisions from this submittal include revisions to definitions included in Reg. 7, part D, section III for natural gas-actuated pneumatic controllers associated with oil and gas operations. The revisions to definitions associated with pneumatic controllers reflect more accurate and appropriate technical definitions and do not affect the substance of the requirements. Therefore, we propose to approve the changes.

f. Analysis of Reg. 7 Changes in May 14, 2018, May 13, 2020, and May 20, 2022 Part D Oil and Gas Submittals

In November 2021, the EPA approved the majority of revisions to Colorado's regulations for oil and gas operations from State submissions in 2018 and 2020 [111] but deferred action on several portions of the submittals because we determined that Colorado's SIP revisions did not meet oil and gas CTG RACT requirements for testing and monitoring requirements for combustion control devices for storage vessels and centrifugal compressors. On October 20, 2021, Colorado submitted a letter committing to adopt and submit specific revisions by June 30, 2022. Specifically, the State committed to add requirements for performance testing of certain combustion devices consistent with the EPA's oil and gas CTG by using the same frequency, testing protocol, and recordkeeping requirements that apply to storage vessels and wet seal centrifugal compressors required to be controlled under the EPA's oil and gas CTG (*i.e.,* storage vessels that have the potential for VOC emissions equal to or greater than 6 tpy). The EPA issued a conditional approval of Reg. 7 revisions and the State's RACT determination for the oil and gas CTG on May 13, 2022 [112] based on the commitment letter submitted by the APCD. An evaluation of Reg. 7 revisions from the State's May 14, 2018 and May 13, 2020 submittals and October 20, 2021 commitment letter is in our February 17, 2022 proposed rule.[113]

The revisions from the May 20, 2022 part D, Oil and Gas submittal are consistent with the commitments in the letter [114] and include provisions for performance testing or demonstration of manufacturer testing for combustion equipment used to control emissions from storage vessels in section I.E.3. and wet seal centrifugal compressors in section I.J.1.h. A detailed evaluation of section I is in our February 17, 2022 proposed rule and the associated TSD for that action.[115] We propose to find that the revisions in section I from the State's May 20, 2022 part D, Oil and Gas submittal are consistent with CAA and RACT requirements, and that they strengthen the SIP. We also propose to find that the State has adopted and submitted the specific revisions it has committed to by June 30, 2022 and that the conditional approval will now convert to full approval.

VI. Proposed Action

We propose to approve the majority of the OAP submittal from the State of Colorado for the DMNFR Area submitted on March 22, 2021. (In this rule we are not proposing any action on the submitted attainment demonstration, enhanced monitoring, or contingency measures.) Specifically, we propose to approve:

- Milestone and future year emissions inventories;
- RFP demonstration;
- Demonstration of RACT for oil and natural gas industry VOC CTG sources;
- Demonstration of RACT for certain miscellaneous metal parts coatings VOC CTG sources;
- Demonstration of RACT for certain VOC and NO_X non-CTG sources;
- Demonstration of RACM implementation;
- Motor vehicle I/M program;
- NNSR program; and
- MVEBs.

We also propose to approve SIP revisions to Reg. 21 submitted by the State on May 13, 2020 and to Reg. 7 submitted by the State on March 22, 2021, May 18, 2021, and May 20, 2022 as shown in Table 7. We are proposing to approve Colorado's determination that the above rules constitute RACT for the specific categories addressed in Tables 3 and 4. A comprehensive summary of the revisions in Colorado's Regs. 7 and 21 organized by the EPA's proposed rule action and submittal dates are provided in the Table 7.

TABLE 7—LIST OF COLORADO REVISIONS TO REGS. 7 AND 21 THAT THE EPA PROPOSES TO APPROVE

Revised sections in May 14, 2018, May 13, 2020, March 22, 2021, and May 20, 2022 submittals proposed for approval
May 14, 2018:
Reg. 7, part D, section XII.J.1.
May 13, 2020, Oil and Gas Submittal:
Reg. 7, part D, sections I.D.–D.3.a.(i), I.D.3.b.–b.(i), I.D.3.b.(ii), I.D.3.b.(v), I.D.3.b.(vii), I.D.3.b.(ix), I.D.4.–I.E.1.a., I.E.2.–.c.(ii), I.E.2.c.(iv)–c.(viii), I.F.–1.d., I.F.1.g.–g.(xii), I.F.1.h.–F.2.a., I.F.2.c.–c.(vi), I.F.3.–3.a, I.F.3.c.–c.(i)(C), and I.J.1.–j. (renumbering).
May 13, 2020, Reg. 21 Submittal:
Reg. 21, part A, sections I–I.A.1, I.B.–VI.AAAAAAA., part B, sections I.–I.A.1., I.B.–VI.TTT.
March 22, 2021 Submittal:
Reg. 7, part C, sections I.O., I.O.2., I.O.3.a., I.O.3.b.–c., I.O.4.a., I.O.5.a., part E, sections II.A.1.b., II.A.4., II.A.4.a.(iii), II.A.4.a.(iv), II.A.4.b.(i)–(A)(4), II.A.4.b.(iv), II.A.5.c.(i)(A)–(2), II.A.6.a.(ii), II.A.6.b.(viii)(B), and III.B.
May 18, 2021 Submittal:
Reg. 7, Outline of Regulation, parts A, B, C, and D; part E and part F; part E, sections I.A.3. and I.D.4.–a.(ii) (renumbering).
May 20, 2022 Misc. Metals and Process Heaters Submittal:
Reg. 7, part C, sections I.A.6.b., I.L.1.a., I.L.1.b.(i), I.L.b.(ii), I.L.1.b.(iii)–(vii), I.L.1.c.(ii)–(xxvi), I.L.2.a., I.L.2.b.–I.L.5.d., part D, section IIIC.4.e.(i)(D)(3)(b), part E, sections II.A.2.f., II.A.3.p., II.A.4., II.A.4.a.(iv), II.A.4.b.(iii), II.A.4.e.(ii), II.A.4.g.–(ii), II.A.5.a.–b.(iv), II.A.6.b.(viii)(E), and II.A.6.c.(ii).
May 20, 2022 Part D Definitions Submittal:

[111] 86 FR 61071.

[112] 87 FR 29228.

[113] Proposed rule, Air Plan Conditional Approval; Colorado; Revisions to Regulation Number 7 and Oil and Natural Gas RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 87 FR 8997.

[114] *See https://www.coloradosos.gov/CCR/eDocketDetails.do?trackingNum=2021-00594.*

[115] *See* Technical Support Document for Proposed Action on the Reasonably Available Control Technology Determination for Oil and Gas CTG Sources Within Colorado's Denver Metro/North Front Range Area 2008 Ozone State Implementation Plan, Air and Radiation Program, U.S. EPA Region 8, January 2022, available within the docket for this action.

TABLE 7—LIST OF COLORADO REVISIONS TO REGS. 7 AND 21 THAT THE EPA PROPOSES TO APPROVE—Continued

Revised sections in May 14, 2018, May 13, 2020, March 22, 2021, and May 20, 2022 submittals proposed for approval
Reg. 7, part D, sections III.B.2., III.B.5., III.B.7., III.B.11., and III.B.13.
May 20, 2022 Part D Oil and Gas Submittal:
Reg. 7, part D, sections I.E.3–a.(iii) and I.J.1.g.–k.

VII. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state be adopted by the state after reasonable notice and public hearing.

The Colorado SIP revisions that the EPA is proposing to approve do not interfere with any applicable requirements of the Act. The Reg. 7 revisions submitted by the State are intended to strengthen the SIP and to serve as RACT for certain sources for the Colorado ozone SIP. Colorado's submittals provide adequate evidence that the revisions were adopted after reasonable public notices and hearings. Therefore, CAA section 110(l) requirements are satisfied.

VIII. Environmental Justice Considerations

Executive Order 12898 [116] directs federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. Additionally, Executive Order 13985 [117] directs federal agencies to assess whether and to what extent their programs and policies perpetuate systemic barriers to opportunities and benefits for underserved populations, and Executive Order 14008 [118] directs federal agencies to develop programs, policies, and activities to address the disproportionately and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities.

To identify potential environmental burdens and susceptible populations in the DMNFR Area, a screening analysis was conducted using the EJSCREEN [119] tool to evaluate environmental and demographic indicators within the area, based on available data from the Census Bureau's American Community Survey. The tool outputs showing the results of this assessment are in the docket for this action. These results indicate that within the DMNFR Area there are census block groups that are above the national averages and above the 80th percentile (in comparison to the nation as a whole) for the numbers of persons experiencing low income and people of color. These populations may be vulnerable and subject to disproportionate impacts within the meaning of the executive orders described above. Further, as the EJSCREEN analysis is a screening-level assessment and not an in-depth review, it is possible that there are other vulnerable groups within the DMNFR Area.

As to all vulnerable groups within the DMNFR Area, as explained below we believe that this action will be beneficial and will tend to reduce impacts. When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. If an area is designated nonattainment for a NAAQS, the state must develop a plan outlining how the area will attain and maintain the standard by reducing air pollutant emissions. In this action we are proposing to approve the majority of the State's OAP submittal for the DMNFR Area and state rules as meeting RACT and satisfying other CAA requirements. The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Approval of these rules into the SIP will establish federally enforceable requirements that may reduce emissions from operations in the area. These requirements will contribute to the increased protection of those residing, working, attending school, or otherwise present in those areas, and we propose to determine that this rule, if finalized, will not have disproportionately high or adverse human health or environmental effects on communities with environmental justice concerns.

IX. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado AQCC Regulation 7 pertaining to the control of ozone via ozone precursors and control of hydrocarbons vial oil and gas emissions and Regulation 21 pertaining to Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings discussed in section VI of this preamble.

The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

X. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[116] Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629 (Feb. 16, 1994).

[117] 86 FR 7009 (Jan. 25, 2021).

[118] 86 FR 7619 (Feb. 1, 2021).

[119] EJSCREEN is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators; available at *https://www.epa.gov/ejscreen/what-ejscreen.*

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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. The proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: October 30, 2022.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2022–24075 Filed 11–8–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0056–P]

RIN 0938–AT38

Administrative Simplification: Modifications of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) Retail Pharmacy Standards; and Adoption of Pharmacy Subrogation Standard

AGENCY: Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: This proposed rule would adopt updated versions of the retail pharmacy standards for electronic transactions adopted under the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These updated versions would be modifications to the currently adopted standards for the following retail pharmacy transactions: health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits. The proposed rule would also broaden the applicability of the Medicaid pharmacy subrogation transaction to all health plans. To that end, the rule would rename and revise the definition of the transaction and adopt an updated standard, which would be a modification for state Medicaid agencies and an initial standard for all other health plans.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, January 9, 2023.

ADDRESSES: In commenting, please refer to file code CMS–0056–P.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *https://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0056–P, P.O. Box 8013, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0056–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by following the instructions at the end of the ''Collection of Information Requirements'' section in this document.

FOR FURTHER INFORMATION CONTACT: Geanelle G. Herring, (410) 786–4466, Beth A. Karpiak, (312) 353–1351, or Christopher S. Wilson, (410) 786–3178.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *https://www.regulations.gov.* Follow the search instructions on that website to view public comments. The Centers for Medicare & Medicaid Services (CMS) will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage 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.

I. Executive Summary

A. Purpose

This rule proposes to adopt modifications to standards for electronic retail pharmacy transactions and a subrogation standard adopted under the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and to broaden the applicability of the HIPAA subrogation transaction.

a. Need for the Regulatory Action

The rule proposes to modify the currently adopted retail pharmacy standards and adopt a new standard. These proposals would provide improvements such as more robust data exchange, improved coordination of benefits, and expanded financial fields that would avoid the need to manually enter free text, split claims, or prepare and submit a paper Universal Claim Form.

But for a small modification to the requirement for the use of a particular data field, adopted in 2020, the presently adopted pharmacy standards were finalized in 2009. Since then, the National Committee on Vital and Health Statistics (NCVHS) has recommended that HHS publish a proposed rule adopting more recent standards to address evolving industry changing business needs. Consistent with NCVHS recommendations and collaborative industry and stakeholder input, we believe the updated retail pharmacy standards we propose here are sufficiently mature for adoption and that covered entities are ready to implement them.

b. Legal Authority for the Regulatory Action

Sections 1171 *et seq.* of the Social Security Act (the Act) are the legal authority for this regulatory action.

B. Summary of the Major Provisions

The provisions in this proposed ruled would adopt the NCPDP Telecommunication Standard Implementation Guide, Version F6 (Version F6) and equivalent NCPDP Batch Standard Implementation Guide, Version 15 (Version 15); and NCPDP Batch Standard Pharmacy Subrogation Implementation Guide, Version 10, for non-Medicaid health plans. These updated standards would replace the currently adopted NCPDP Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0) and the equivalent NCPDP Batch Standard Implementation Guide, Version 1, Release 2 (Version 1.2); and NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, Release 0.

Industry stakeholders report that Version F6 would bring much needed upgrades over Version D.0, such as improvements to the information attached to controlled substance claims, including refinement to the quantity prescribed field. This change would enable refills to be distinguished from multiple dispensing events for a single fill, which would increase patient safety. Version F6 provides more specific fields to differentiate various types of fees, including taxes, regulatory fees, and medication administration fees. Finally, Version F6 increases the dollar amount field length and would simplify coverage under prescription benefits of new innovative drug therapies priced at, or in excess of, $1 million. The current adopted Version D.0 does not support this business need.

The current Medicaid Subrogation Implementation Guide Version 3.0 (Version 3.0) was adopted to support federal and state requirements for state Medicaid agencies to seek reimbursement from the correct responsible health plan. However, industry stakeholders reported that there is a need to expand the use of the subrogation transaction beyond Medicaid agencies, and noted that the use of a subrogation standard that would apply to other payers would be a positive step for the industry. Whereas HIPAA regulations currently require only Medicaid agencies to use Version 3.0 in conducting the Medicaid pharmacy subrogation transaction, all health plans would be required to use the Pharmacy Subrogation Implementation Guide for Batch Standard, Version 10, to transmit pharmacy subrogation transactions, which would allow better tracking of subrogation efforts and results across all health plans, and support cost containment efforts.

Should these proposals be adopted as proposed, it would require covered entities to comply 24 months after the effective date of the final rule. Small health plans would have 36 months after the effective date of the final rule to comply.

C. Summary of Costs and Benefits

We estimate that the overall cost for pharmacies, pharmacy benefit plans, and chain drug stores to move to the updated versions of the pharmacy standards and the initial adoption of the pharmacy subrogation transaction standard would be approximately $386.3 million. The cost estimate is based on the need for technical development, implementation, testing, initial training, and a 24-month compliance timeframe. We believe that HIPAA covered entities or their contracted vendors have already largely invested in the hardware, software, and connectivity necessary to conduct the transactions with the updated versions of the pharmacy standards.

II. Background

A. Legislative Authority for Administrative Simplification

This background discussion presents a history of statutory provisions and regulations that are relevant for purposes of this proposed rule.

Congress addressed the need for a consistent framework for electronic transactions and other administrative simplification issues in HIPAA (Pub. L. 104–191, enacted on August 21, 1996). Through subtitle F of title II of HIPAA, Congress added to title XI of the Act a new Part C, titled ''Administrative Simplification,'' which required the Secretary of the Department of Health and Human Services (the Secretary) to adopt standards for certain transactions to enable health information to be exchanged more efficiently and to achieve greater uniformity in the transmission of health information. For purposes of this and later discussion in this proposed rule, we sometimes refer to this statute as the ''original'' HIPAA.

Section 1172(a) of the Act states that ''[a]ny standard adopted under [HIPAA] shall apply, in whole or in part, to . . . (1) A health plan. (2) A health care clearinghouse. (3) A health care provider who transmits any health information in electronic form in connection with a [HIPAA transaction],'' which are collectively referred to as ''covered entities.'' Generally, section 1172 of the Act requires any standard adopted under HIPAA to be developed, adopted, or modified by a standard setting organization (SSO). In adopting a standard, the Secretary must rely upon recommendations of the NCVHS, in consultation with the organizations referred to in section 1172(c)(3)(B) of the Act, and appropriate federal and state agencies and private organizations.

Section 1172(b) of the Act requires that a standard adopted under HIPAA be consistent with the objective of reducing the administrative costs of providing and paying for health care. The transaction standards adopted under HIPAA enable financial and administrative electronic data interchange (EDI) using a common structure, as opposed to the many varied, often proprietary, transaction formats on which industry had previously relied and that, due to lack of uniformity, engendered administrative burden. Section 1173(g)(1) of the Act, which was added by section 1104(b) of the Patient Protection and Affordable Care Act, further addresses the goal of uniformity by requiring the Secretary to adopt a single set of operating rules for each

HIPAA transaction. These operating rules are required to be consensus-based and reflect the necessary business rules that affect health plans and health care providers and the manner in which they operate pursuant to HIPAA standards.

Section 1173(a) of the Act requires that the Secretary adopt standards for financial and administrative transactions, and data elements for those transactions, to enable health information to be exchanged electronically. The original HIPAA provisions require the Secretary to adopt standards for the following transactions: health claims or equivalent encounter information; health claims attachments; enrollment and disenrollment in a health plan; eligibility for a health plan; health care payment and remittance advice; health plan premium payments; first report of injury; health claim status; and referral certification and authorization. The Patient Protection and Affordable Care Act (Pub. L. 111–148) additionally required the Secretary to develop standards for electronic funds transfers transactions. Section 1173(a)(1)(B) of the Act requires the Secretary to adopt standards for any other financial and administrative transactions the Secretary determines appropriate. Section 1173(a)(4) of the Act requires that the standards and operating rules, to the extent feasible and appropriate: enable determination of an individual's eligibility and financial responsibility for specific services prior to or at the point of care; be comprehensive, requiring minimal augmentation by paper or other communications; provide for timely acknowledgment, response, and status reporting that supports a transparent claims and denial management process; describe all data elements in unambiguous terms, require that such data elements be required or conditioned upon set terms in other fields, and generally prohibit additional conditions; and reduce clerical burden on patients and providers.

Section 1174 of the Act requires the Secretary to review the adopted standards and adopt modifications to them, including additions to the standards, as appropriate, but not more frequently than once every 12 months, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

Section 1175(a) of the Act prohibits health plans from refusing to conduct a transaction as a standard transaction. Section 1175(a)(3) of the Act also prohibits health plans from delaying the transaction or adversely affecting or attempting to adversely affect a person or the transaction itself on the grounds that the transaction is in standard format. Section 1175(b) of the Act provides for a compliance date not later than 24 months after the date on which an initial standard or implementation specification is adopted for all covered entities except small health plans, which must comply not later than 36 months after such adoption. If the Secretary adopts a modification to a HIPAA standard or implementation specification, the compliance date for the modification may not be earlier than 180 days following the date of the adoption of the modification. The Secretary must consider the time needed to comply due to the nature and extent of the modification when determining compliance dates, and may extend the time for compliance for small health plans if he deems it appropriate.

Sections 1176 and 1177 of the Act establish civil money penalties (CMPs) and criminal penalties to which covered entities may be subject for violations of HIPAA Administrative Simplification rules. HHS administers the CMPs under section 1176 of the Act and the U.S. Department of Justice administers the criminal penalties under section 1177 of the Act. Section 1176(b) sets out limitations on the Secretary's authority and provides the Secretary certain discretion with respect to imposing CMPs. This section provides that no CMPs may be imposed with respect to an act if a penalty has been imposed under section 1177 with respect to such act. This section also generally precludes the Secretary from imposing a CMP for a violation corrected during the 30-day period beginning when an individual knew or, by exercising reasonable diligence, would have known that the failure to comply occurred.

B. Prior Rulemaking

In the August 17, 2000 **Federal Register**, we published a final rule entitled ''Health Insurance Reform: Standards for Electronic Transactions'' (65 FR 50312) (hereinafter referred to as the Transactions and Code Sets final rule). That rule implemented some of the HIPAA Administrative Simplification requirements by adopting standards for electronic health care transactions developed by SSOs, and medical code sets to be used in those transactions. We adopted X12 Version 4010 standards for administrative transactions, and the National Council for Prescription Drug Programs (NCPDP) Telecommunication Version 5.1 standard for retail pharmacy transactions at 45 CFR part 162, subparts K through R.

Since initially adopting the HIPAA standards in the Transactions and Code Sets final rule, we have adopted a number of modifications to them. The most extensive modifications were adopted in a final rule titled ''Health Insurance Reform; Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards'' in the January 16, 2009 **Federal Register** (74 FR 3296) (hereinafter referred to as the 2009 Modifications final rule). Among other things, that rule adopted updated X12 and NCPDP standards, moving from X12 Version 4010 to X12 Version 5010, and NCPDP Version 5.1 and equivalent Batch Standard Implementation Guide Version 1, Release 1, to NCPDP Version D.0 and equivalent Batch Standard Implementation Guide Version 1, Release 2. In that rule, we also adopted the NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0 standard for the Medicaid pharmacy subrogation transaction. Covered entities were required to comply with these standards beginning on and after January 1, 2012, with the exception of small health plans, which were required to comply on and after January 1, 2013.

In the Transactions and Code Sets final rule, we defined the terms ''modification'' and ''maintenance.'' We explained that when a change is substantial enough to justify publication of a new version of an implementation specification, such change is considered a modification and must be adopted by the Secretary through regulation (65 FR 50322). Conversely, maintenance describes the activities necessary to support the use of a standard, including technical corrections to an implementation specification. Maintenance changes are typically corrections that are obvious to readers of the implementation guides, not controversial, and essential to implementation (68 FR 8388, February 20, 2003). Maintenance changes to Version D.0 were identified by the industry, balloted and approved through the NCPDP, and are contained in the NCPDP Version D.0 Editorial. In an October 13, 2010 **Federal Register** notification titled ''Health Insurance Reform; Announcement of Maintenance Changes to Electronic Data Transaction Standards Adopted Under the Health Insurance Portability and Accountability Act of 1996'' (75 FR 62684), the Secretary announced the maintenance changes and the availability of the NCPDP Version D.0 Editorial and how it could be obtained. The NCPDP Version D.0 Editorial can

now be obtained free of charge in the HIPAA Information Section of the NCPDP website, at *https://www.ncpdp.org/NCPDP/media/pdf/VersionD-Questions.pdf.* This document is a consolidated reference point for questions that have been posed based on the review and implementation of the NCPDP Telecommunication Standard Implementation Guide for Version D.0.

In a final rule titled ''Administrative Simplification: Modification of the Requirements for the Use of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) D.0 Standard,'' published in the January 24, 2020 **Federal Register** (85 FR 4236) (hereafter, Modification of Version D.0 Requirements final rule), the Secretary adopted a modification of the requirements for the use of the Quantity Prescribed (460–ET) field of the August 2007 publication of Version D.0. The modification required covered entities to treat the Quantity Prescribed (460–ET) field as required where a transmission uses Version D.0, August 2007, for a Schedule II drug for these transactions: (1) health care claims or equivalent encounter information; (2) referral certification and authorization; and (3) coordination of benefits.

In that rulemaking, the Secretary noted that the NCPDP had issued a subsequent publication, the October 2017 Telecommunication Standard Implementation Guide, Version F2 (Version F2), that, among many other unrelated changes, revised the situational circumstances to specify an even broader use of the Quantity Prescribed (460–ET) field. The change described the field as ''required only if the claim is for a controlled substance or for other products as required by law; otherwise, not available for use.'' We explained that we chose not to adopt Version F2 at that time because, given the public health emergency caused by the opioid crisis and the urgent need to find ways to yield data and information to help combat it, we believed it was more appropriate to take a narrow, targeted approach while taking additional time to further evaluate the impact of a new version change on covered entities.

C. Standards Adoption and Modification

The law generally requires at section 1172(c) that any standard adopted under HIPAA be developed, adopted, or modified by an SSO. Section 1171 of the Act defines an SSO as an SSO accredited by the American National Standards Institute (ANSI), including the NCPDP (the SSO applicable to this proposed rule) that develops standards for information transactions, data, or any standard that is necessary to, or will facilitate the implementation of, Administrative Simplification. Information about the NCPDP's balloting process, the process by which it vets and approves the standards it develops and any changes thereto, is available on its website, *https://www.ncpdp.org.*

a. Designated Standards Maintenance Organizations (DSMO)

In the Transactions and Code Sets final rule, the Secretary adopted procedures to maintain and modify existing, and adopt new, HIPAA standards and established a new organization type called the ''Designated Standard Maintenance Organization'' (DSMO). Regulations at 45 CFR 162.910 provide that the Secretary may designate as a DSMO an organization that agrees to conduct, to the satisfaction of the Secretary, the functions of maintaining the adopted standard, and receiving and processing requests for adopting a new standard or modifying an adopted standard. In an August 17, 2000 notice titled ''Health Insurance Reform: Announcement of Designated Standard Maintenance Organizations'' (65 FR 50373), the Secretary designated the following six DSMOs: X12, NCPDP, Health Level Seven, the National Uniform Billing Committee (NUBC), the National Uniform Claim Committee (NUCC), and the Dental Content Committee (DCC) of the American Dental Association.

b. Process for Adopting Initial Standards, Maintenance to Standards, and Modifications to Standards

In general, HIPAA requires the Secretary to adopt standards that have been developed by an SSO. The process for adopting a new standard or a modification to an existing standard is described in the Transactions and Code Sets final rule (65 FR 50344) and implemented at § 162.910. Under § 162.910, the Secretary considers recommendations for proposed modifications to existing standards or a proposed new standard if the recommendations are developed through a process that provides for: open public access; coordination with other DSMOs; an appeals process for the requestor of the proposal or the DSMO that participated in the review and analysis if either of the preceding were dissatisfied with the decision on the request; an expedited process to address HIPAA content needs identified within the industry; and submission of the recommendation to the NCVHS.

Any entity may submit change requests with a documented business case to support its recommendation to the DSMO. The DSMO receives and manages those change requests, including reviewing them and notifying the SSO of its recommendation for approval or rejection. If the changes are recommended for approval, the DSMO also notifies the NCVHS and suggests that a recommendation for adoption be made to the Secretary.

The foregoing processes were followed with respect to the modifications and new standard proposed in this rule, and stemmed from the following change requests the NCPDP submitted to the DSMO: (1) DSMO request 1201 requested replacing the adopted NCPDP Telecommunication Standard Implementation Guide, Version D.0 and the equivalent Batch Standard Implementation Guide Version 1.2 with updated versions, the NCPDP Telecommunication Standard Implementation Guide, Version F2 and the equivalent Batch Standard Implementation Guide, Version 15; (2) DSMO request 1202 requested replacing the adopted NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, for use by Medicaid agencies, with the NCPDP Batch Standard Subrogation Implementation Guide, Version 10, for use by all health plans; and (3) DSMO request 1208 updated DSMO request 1201 requested adopting an updated version of the NCPDP Telecommunication Standard Implementation Guide, Version F6 instead of Version F2.

c. NCVHS Recommendations

The NCVHS was established by statute in 1949; it serves as an advisory committee to the Secretary and is statutorily conferred a significant role in the Secretary's adoption and modification of HIPAA standards. In 2018, the NCVHS conducted two days of hearings seeking the input of health care providers, health plans, clearinghouses, vendors, and interested stakeholders regarding the NCPDP Telecommunication Standard, Version F2, as a potential replacement for NCPDP Version D.0, and the equivalent Batch Standard Implementation Guide, Version 15, as a potential replacement for Version 1.2. Testimony was also presented in support of replacing the NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, with the Batch Standard Subrogation Implementation Guide, Version 10. In addition to the NCPDP, organizations submitting testimony

included the Centers for Medicare & Medicaid Services' Medicare Part D program, the National Association of Chain Drug Stores (NACDS), Ohio Medicaid, Pharmerica, CVS Health, and an independent pharmacy, Sam's Health Mart.[1]

In a letter[2] dated May 17, 2018, the NCVHS recommended that the Secretary adopt the updated versions of the standards, including the pharmacy subrogation standard. As discussed, in part, in section III.B. of this rule, we believed that proposing a modification to the retail pharmacy standard required further evaluation, including an assessment of the impact of implementing the modification, given the many significant changes a version change would require covered entities to undertake. Therefore, we did not propose to adopt Version F2 based on that NCVHS recommendation in our 2019 proposed rule entitled ''Administrative Simplification: Modification of the Requirements for the Use of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) D.0 Standard,'' published in the January 31, 2019 **Federal Register** (84 FR 633), which led to the January 24, 2020 Modification of Version D.0 Requirements final rule.

During the March 24, 2020 NCVHS full committee meeting, there was a hearing to discuss Change Request 1208 regarding the NCPDP Telecommunication Standard, Version F6, as a potential update to the NCVHS 2018 recommendation to the Secretary to adopt Version F2. During the hearing, the NCPDP noted that several key Version F2 limitations had been resolved by Telecommunication Standard Implementation Guide, Version F6. Significantly, with respect to the number of digits in the dollar field, Version F2 would not support dollar fields of $1 million or more. To that point, since receipt of the NCVHS's May 17, 2018 recommendation, several new drugs priced at, or in excess of, $1 million have entered the market and researchers and analysts anticipate that over the next several years dozens of new drugs priced similarly or higher may enter the market, while hundreds more likely high-priced therapies, including for gene therapies that target certain cancers and rare diseases, are under development. To meet emerging business needs, the NCPDP updated the Telecommunication Standard to support dollar fields equal to, or in excess of, $1 million and made other updates, including enhancements to improve coordination of benefits processes, prescriber validation fields, plan benefit transparency, codification of clinical and patient data, harmonization with related standards, and controlled substance reporting, that necessitated the new version, F6. The transcript and testimony from the March 24, 2020 full committee meeting is available at *https://ncvhs.hhs.gov/meetings/full-committee-meeting-4/.*

In a letter dated April 22, 2020,[3] the NCVHS recommended that the Secretary adopt Version F6 to replace Version D.0. and provide a 3-year pre-implementation window following publication of the final rule. The recommendation letter stated that allowing the industry to use either Version D.0 or Version F6 would enable an effective live-testing and transition period. The NCVHS advised that the Secretary should require full compliance with Version F6 beginning May 1, 2025, and also urged that HHS act on its May 2018 recommendations to adopt the NCPDP Batch Standard Implementation Guide Version 15 and the NCPDP Batch Standard Subrogation Implementation Guide Version 10.

III. Provisions of the Proposed Rule

A. Proposed Modifications to NCPDP Telecommunication Standard Implementation Guide Version F6 (Version F6) and Equivalent Batch Standard, Version 15 (Version 15) for Retail Pharmacy Transactions

1. Overview

Should they be finalized as proposed herein, the NCPDP Telecommunication Standard Implementation Guide, Version F6 (Version F6) and equivalent NCPDP Batch Standard Implementation Guide, Version 15 (Version 15) would replace the currently adopted NCPDP Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0) and the equivalent NCPDP Batch Standard Implementation Guide, Version 1, Release 2 (Version 1.2). Version F6 includes a number of changes from Version D.0 that alter the use or structure of data fields, insert new data segments, and add new functionality. Adopting Version F6 to replace Version D.0 would constitute a HIPAA modification.

We are proposing to adopt modifications to the current HIPAA retail pharmacy standards for the following transactions: health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits. Covered entities conducting the following HIPAA transactions would be required to use Version F6:

- Health care claims or equivalent encounter information (§ 162.1101).
  - ++ Retail pharmacy drug claims.
  - ++ Retail pharmacy supplies and professional claims.
- Eligibility for a health plan (§ 162.1201).
  - ++ Retail pharmacy drugs.
- Referral certification and authorization (§ 162.1301).
  - ++ Retail pharmacy drugs.
- Coordination of benefits (§ 162.1801).

In its April 22, 2020 letter to the Secretary, the NCVHS considered industry testimony and recommended that HHS propose to replace Version D.0 with Version F6 as the HIPAA standard for retail pharmacy transactions. Testifiers at the March 2020 NCVHS full committee meeting advocated for HHS to adopt updated versions of the retail pharmacy standards to better accommodate business requirements that have changed significantly for covered entities since 2009 when Version D.0 was adopted, and also since Version F2 was approved. The NCVHS recommendation, and industry testimony from both the May 2018 hearing and the March 2020 full committee meeting, highlighted the benefits Version F6 would provide over Version D.0, to include benefits introduced in Version F2 that are incorporated into Version F6:

- *Accommodation of very expensive drug therapies*—Version F6 accommodates the expansion of financial fields needed for drug products priced at, or in excess of, $1 million that are now available in the market. While such products are still rare, their numbers are expected to increase, and without this functionality pharmacies must employ disparate and burdensome payor-specific methods for split claims or manual billing, which increases the risk of billing errors.
- *More robust data exchange between long-term care providers and payers*—Version F6 includes information needed for prior authorizations and enhancements to the drug utilization review (DUR) fields in the claim response transaction. This change can

[1] *https://ncvhs.hhs.gov/meetings/agenda-of-the-march-26-2018-hearing-on-ncpdp-standards-updates/.*

[2] *https://ncvhs.hhs.gov/wp-content/uploads/2018/08/Letter-to-Secretary-NCVHS-Recommendations-on-NCPDP-Pharmacy-Standards-Update.pdf.*

[3] *https://ncvhs.hhs.gov/wp-content/uploads/2020/04/Recommendation-Letter-Adoption-of-New-Pharmacy-Standard-Under-HIPAA-April-22-2020-508.pdf.*

improve communication from the payer to the pharmacy, thus enabling the pharmacy to act more quickly to the benefit of the patient.[4]

• *Coordination of benefits (COB)*—Version F6 includes new COB segment fields that would improve the identification of the previous payer and its program type, such as Medicare, Medicaid, workers compensation, or self-pay program, eliminating the need to use manual processes to identify this information. Pharmacy providers and payers that engage in COB must identify the previous payer and its program type in order to process the claim in accordance with applicable requirements, including requirements related to primary payment responsibility and payer order. For example, the new data segment fields would support compliance with the payer processing order with Medicaid as the payer of last resort, as well as prevent inappropriate access to pharmaceutical manufacturer copay coupons for drugs paid under federal programs, including Medicare Part D.

• *Prescriber Validation*—Medicare Part D program requirements to improve the validity of prescriber identifiers and improve program integrity controls have driven the need for new prescriber segment fields in Version F6 to enhance prescriber validation, such as the ability to capture a Drug Enforcement Administration (DEA) number, in addition to the National Provider Identifier (NPI), and a Prescriber Place of Service to identify telehealth. Enhancements also include new reject codes and related messaging fields to provide additional information on limitations in prescriptive authority, such as to confirm assignment as the patient's designated prescriber for opioids.

• *Controlled Substances Reporting*—Version F6 makes a number of updates to controlled substances reporting that would permit the exchange of more information for better monitoring and documentation of compliance with state and federal requirements. Changes to the Claim Billing and Response Claim segments provide additional information to enhance patient safety controls for controlled substance prescriptions. For instance, Version F6 would enable claims processors, including, for example, pharmacy benefit managers (PBMs) and health plans that process their pharmacy claims in-house, to be informed of the exact prescription quantity and fill information, improve edits from the processor, and reduce confusion that can occur today and that sometimes requires patients to obtain a new prescription. Other specific enhancements include adding a Do Not Dispense Before Date field to support providers writing multiple, 1-month prescriptions for controlled substances. This field also supports compliance with requirements certain states have on the number of days a patient has to fill a controlled substance from the date written.

• *Harmonization with Related Standards*—Version F6 accommodates business needs to comply with other industry standard requirements, such as the ability to comply with ANSI expanded field-length requirements for the Issuer Identification Number (IIN), formerly known as the Bank Identification Number. The IIN is used to identify and route the transaction to the appropriate PBM. ANSI expanded the IIN field length to accommodate more unique numbers. Version F6 also accommodates FDA-required Unique Device Identifiers (UDI) that are now up to 40 characters in length, whereas Version D.0 only allows for 11 characters.

• *Codification of Clinical and Patient Data*—Pharmacy and payer workflows are enhanced in Version F6 by replacing many clinical and non-clinical free-text fields in Pharmacy Claim and Payer Claim Response segments with discrete codified fields. The computable data in discrete fields can then be utilized to automatically trigger workflows, such as those to help combat opioid misuse or to communicate relevant information to enhance patient safety.

• *Plan Benefit Transparency*—Interoperability between the payer and pharmacy is improved in Version F6 with the ability to exchange more actionable plan-specific information. New Payer Response fields enhance the ability to target plan benefit package detail associated with the specific patient. The availability of this information may avoid prior authorization interruptions, as well as allow pharmacists to have more informative discussions with patients and provide valuable information about alternative drug or therapy solutions, which can reduce delays in therapy and improve patient adherence.

2. Partial Fill of Controlled Substances—Quantity Prescribed (460–ET) Field

As discussed in section I. of this proposed rule, in the Modification of Version D.0 Requirements final rule (85 FR 4236), we adopted the requirements that the Quantity Prescribed (460–ET) field in Version D.0 must be treated as a required field where the transmission is for a Schedule II drug in any of the following three HIPAA transactions: (1) health care claims or equivalent encounter information; (2) referral certification and authorization; and (3) coordination of benefits. Version F6 requires the use of the 460–ET field for all controlled substances. Therefore, we would no longer need to explicitly require its situational use, and we would revise the regulation text at §§ 162.1102(d), 162.1302(d), and 162.1802(d) accordingly.

3. Batch Standard, Version 15 (Version 15) for Retail Pharmacy Transactions

Batch mode can be used for processing large volumes of transactions. For example, a retail pharmacy that has several locations can send one batch mode transaction, containing multiple claims collected over time from the various locations, to an entity with which it has contracted, or otherwise to a centralized entity, that will route each claim in the transaction to the appropriate payer. The NCPDP Batch Standard, Version 15, better supports retail pharmacy batch mode transactions than the currently adopted Version 1.2 because it was developed in coordination with F6 and includes the same benefits as Version F6, but in batch mode, including the updates that improve coordination of benefits processes, prescriber validation fields, plan benefit transparency, codification of clinical and patient data, harmonization with related standards, and controlled substance reporting.

In sum, we believe adopting Version F6 and its equivalent Batch Standard, Version 15 to replace Version D.0 and Version 1.2 would result in greater interoperability for entities exchanging prescription information, improve patient care, provide better data for drug utilization monitoring, and reduce provider burden. Because Version F6 and Version 15 would better support the business needs of the industry than Version D.0 and Version 1.2, we propose to adopt them as the standards for the following retail pharmacy transactions: health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits. We would revise §§ 162.1102, 162.1202, 162.1302, and 162.1802 accordingly.

We solicit comments regarding our proposal to adopt Version F6 to replace Version D.0 and Version 15 to replace Version 1.2.

[4] *https://ncvhs.hhs.gov/wp-content/uploads/2018/05/Session-A-Schoettmer-Written-508.pdf.*

B. Proposed Modification of the Pharmacy Subrogation Transaction Standard for State Medicaid Agencies and Initial Adoption of the Pharmacy Subrogation Standard for Non-Medicaid Health Plans

In the 2009 Modifications final rule, we adopted the Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, Release 0 (Version 3.0) as the standard for the Medicaid pharmacy subrogation transaction. In that rule, we discussed that state Medicaid agencies sometimes pay claims for which a third party may be legally responsible, and where the state is required to seek recovery. This can occur when the Medicaid agency is not aware of the existence of other coverage, though there are also specific circumstances in which states are required by federal law to pay claims and then seek reimbursement afterward. For the full discussion, refer to 74 FR 3296.

1. Proposed Modification to the Definition of Medicaid Subrogation Transaction

Because we are proposing to broaden the scope of the subrogation transaction to apply to all health plans, not just state Medicaid agencies, we are proposing to revise the definition of the transaction. The Medicaid pharmacy subrogation transaction is defined at § 162.1901 as the transmission of a claim from a Medicaid agency to a payer for the purpose of seeking reimbursement from the responsible health plan for a pharmacy claim the state has paid on behalf of a Medicaid recipient. We are proposing to change the name of the transaction at § 162.1901 to the ''Pharmacy subrogation transaction'' and define the transaction as the transmission of a request for reimbursement of a pharmacy claim from a health plan that paid the claim, for which it did not have payment responsibility, to the health plan responsible for the claim.

There are a few notable differences between the current and proposed transaction definitions. First, the current definition defines the transaction such that it only applies to state Medicaid agencies, in their role as health plans, as the sender of the transaction. Because we are proposing to broaden the scope of the transaction to apply to all health plans, not just state Medicaid agencies, the Pharmacy subrogation transaction definition would specify that the sender of the transaction is ''a health plan that paid the claim'' instead of a ''Medicaid agency.'' In addition, the current definition identifies that the sender of the transaction is requesting ''reimbursement for a pharmacy claim the state has paid on behalf of a Medicaid recipient.'' To align this aspect of the current definition with the broadened scope that would apply to all health plans, the proposed definition identifies that the sender health plan has paid a claim ''for which it did not have payment responsibility.''

Second, the current definition identifies a pharmacy subrogation transaction as the ''transmission of a claim.'' The proposed definition would specify that a pharmacy subrogation transaction is the transmission of a ''request for reimbursement of a pharmacy claim.'' We use the term ''claim'' in a specific way with regard to the HIPAA transaction defined at 45 CFR 162.1101 to describe a provider's request to obtain payment from a health plan. We never intended that the subrogation transaction be defined as a ''claim'' in the strict sense of the word. We believe replacing ''claim'' with ''request for reimbursement'' would clarify that the purpose of a pharmacy subrogation transaction is to transmit request to be reimbursed for a claim rather than to transmit a claim.

We are proposing that the current definition of the Medicaid pharmacy subrogation transaction would remain in the regulatory text at § 162.1901(a) and the proposed definition of the Pharmacy subrogation transaction would be added at § 162.1901(b). The Medicaid pharmacy subrogation transaction would continue to apply until the compliance date of the Pharmacy subrogation transaction, in accordance with the proposed compliance dates discussed in section III.C.2. of this proposed rule. Then, beginning on the compliance date for the Pharmacy subrogation transaction, the Medicaid pharmacy subrogation transaction would no longer be in effect and all covered entities would be required to comply with the proposed standard for the Pharmacy subrogation transaction.

2. Proposed Initial Adoption of the NCPDP Batch Standard Pharmacy Subrogation Implementation Guide, Version 10, for Non-Medicaid Health Plans

As discussed previously, the current HIPAA standard, Version 3.0, for the Medicaid pharmacy subrogation transaction, only applies to state Medicaid agencies seeking reimbursement from health plans responsible for paying pharmacy claims. The standard does not address business needs for other payers, such as Medicare Part D, state assistance programs, or private health plans that would seek similar reimbursement. Section 1173(a)(2) of the Act lists financial and administrative transactions for which the Secretary is required to adopt standards. The Pharmacy subrogation transaction is not a named transaction in section 1173(a)(2) of the Act, but section 1172(a)(1)(B) of the Act authorizes the Secretary to adopt standards for other financial and administrative transactions as the Secretary determines appropriate, consistent with the goals of improving the operation of the health care system and reducing administrative costs. Adopting a standard for a broader subrogation transaction that would apply to all health plans, not just Medicaid agencies, would facilitate the efficiency and effectiveness of data exchange and transaction processes for all payers involved in post-payment of pharmacy claims and would support greater payment accuracy across the industry.

At the NCVHS March 2018 hearing,[5] industry stakeholders cited in their testimony the benefits and potential burden reduction that could be achieved by adoption of the NCPDP Batch Standard Pharmacy Subrogation Implementation Guide, Version 10 (hereinafter referred to as Version 10). Testimony to the NCVHS by the NCPDP and other stakeholders explained that the health care system could benefit from greater uniformity in pharmacy subrogation transactions for both Medicaid and non-Medicaid health plans. One testifier reported that an updated pharmacy subrogation transaction would reduce administrative costs and increase interoperability by requiring a standard that could be used by Medicaid and non-Medicaid plans, which would support a uniform approach across all health plans to efficiently process post-payment subrogation claims and eliminate the need for numerous custom formats that industry currently uses. Further testimony supported that an updated standard would aid in reducing the manual processes non-Medicaid payers must perform to pay these types of claims. For example, one testifier explained that, presently, Medicare Part D commercial payer subrogation transactions are submitted for payment to responsible health plans as a spreadsheet or a paper-based universal claim form that requires manual processing by parties on both sides of the transaction. We believe our proposal

[5] *https://ncvhs.hhs.gov/meetings/agenda-of-the-march-26-2018-hearing-on-ncpdp-standards-updates/.*

would automate, and hence ease, much of that effort.

3. Proposed Modification of the Pharmacy Subrogation Transaction Standard for State Medicaid Agencies

We are proposing to replace the NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, Release 0, with the NCPDP Batch Standard Pharmacy Subrogation Implementation Guide, Version 10 as the standard for Pharmacy subrogation transactions at § 162.1902(b). For state Medicaid agencies, this proposal would be a modification from Version 3.0. While Version 10 is called the ''Pharmacy Subrogation Implementation Guide'' rather than the ''Medicaid Subrogation Implementation Guide,'' Version 10 still applies to subrogation transactions originating from Medicaid agencies and preserves the data elements in Version 3.0 except in the following instances, the purpose of which is to accommodate non-Medicaid plans' use of the modified standard:

- The Medicaid Agency Number definition is changed to accommodate use of the field by Medicaid and non-Medicaid health plans.
- The Medicaid Subrogation Internal Control Number/Transaction Control Number field, which is designated as ''not used'' in Version 3.0. is replaced with the required use of the Reconciliation ID field.
- The Medicaid Paid Amount field, which is designated as ''not used'' in Version 3.0, is replaced with the required use of the Subrogation Amount Requested field.
- The Medicaid ID Number field, which is a required field in Version 3.0, is changed to a situational field that is only required when one of the health plans involved in the transaction is a Medicaid agency.

While state Medicaid agencies would be required to implement these changes in order to comply with Version 10, the changes would be de minimis and state Medicaid agencies' use of the modified standard would essentially be the same as their use of the current standard.

We solicit comments on our proposal related to the adoption of Version 10.

C. Proposed Compliance and Effective Dates

1. Proposed Compliance Date for Version F6 and Version 15

Section 1175(b)(2) of the Act addresses the timeframe for compliance with modified standards. The section provides that the Secretary must set the compliance date for a modification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. However, the compliance date may not be sooner than 180 days after the effective date of the final rule. In the discussion later in this rule, we explain why we are proposing that all covered entities would need to be in compliance with Version F6 and its equivalent Batch Standard Version 15 for retail pharmacy transactions 24 months after the effective date of the final rule, which we would reflect in §§ 162.1102, 162.1202, 162.1302, and 162.1802.

In its April 22, 2020 recommendation letter to the Secretary, discussed in section I.C.3. of this proposed rule, the NCVHS, upon consideration of industry feedback, recommended the following implementation timelines and dates for Version F6 and Version 15: [6]

- Provide a 3-year pre-implementation window following publication of the final rule, allowing (but not requiring) industry use beginning at the end of the three years.
- Allow both Versions D.0 and F6 to be used for an 8-month period after the 3-year pre-implementation window, which the NCVHS suggested would enable an effective live-testing and transition period.
- Require full compliance by the end of the third year, that is, exclusive use of Version F6, after the 8-month period.

After carefully considering the NCVHS's recommended implementation timelines and dates, for the following reasons we are not proposing a 3-year pre-implementation compliance window or an 8-month transition period. While industry feedback on which the NCVHS relied to make its recommendations did include some discussion on specific changes necessary to implement Version F6 (for example, the expansion of the financial fields), the majority of feedback was not specific to Version F6, but, rather, concerned general challenges that would be associated with implementing any standard modification. For example, feedback related to concerns about general budget constraints, as well as compliance dates that conflict with other pharmacy industry priorities such as the immunization season or times of year where prescription benefits plans typically experience heavy new member enrollment. In addition, several industry stakeholders, including the NCPDP, stated that they were not aware of any significant implementation barriers specific to Version F6. In its May 17, 2018 letter industry testimony asserted, and the NCVHS agreed, that the process to implement Version F6 would be similar to the process necessary to implement Version F2.[7] Therefore, we are proposing a 24-month compliance timeframe that aligns with the recommendation that the NCVHS made in its May 17, 2018 letter to implement Version F2.[8]

Additionally, the proposed modification, to move from Version D.0 to Version F6, pertains only to retail pharmacy transactions. That is different in scope, for example, from the modifications finalized in the 2009 Modifications final rule (74 FR 3296), which affected all of the then-current HIPAA transactions. There, we implemented an extended compliance date for the modified standards in response to the numerous comments advocating for it given the extensive changes in Versions 5010 and D.0 from Versions 4010 and 5.1, which commenters asserted necessitated a coordinated implementation and testing schedule. Given that the scope of the modification in this proposed rule is limited to just retail pharmacy transactions, we believe the industry has the capability of implementing the modification within a 24-month period after the effective date of the final rule.

Further, we believe the benefits that would be derived from implementing Version F6 and Version 15 (discussed in section III.A.1. of this proposed rule) as soon as possible are significant. Those benefits include mitigating existing inefficient work-arounds, allowing for more robust data exchanges between long-term care providers and payers, improving coordination of benefits information, improving controlled substances reporting, codifying clinical and patient data, harmonizing with related standards, and improving plan benefit transparency. We solicit industry comment on the proposed 24-month compliance date for F6 and Version 15, including any barriers specific to compliance with Version F6 and Version 15 that would require additional time for compliance.

[6] *https://ncvhs.hhs.gov/wp-content/uploads/20s20/04/Recommendation-Letter-Adoption-of-New-Pharmacy-Standard-Under-HIPAA-April-22-2020-508.pdf.* NCVHS April 22, 2020 Recommendation letter.

[7] *https://ncvhs.hhs.gov/wp-content/uploads/2020/03/Public-Comments-NCPDP-Change-Request-March-2020.pdf.*

[8] *https://ncvhs.hhs.gov/wp-content/uploads/2018/08/Letter-to-Secretary-NCVHS-Recommendations-on-NCPDP-Pharmacy-Standards-Update.pdf.*

2. Proposed Compliance Dates for the Batch Standard Subrogation Implementation Guide, Version 10 (Version 10), September 2019, National Council for Prescription Drug Programs

As discussed previously, we are proposing to adopt a Pharmacy subrogation transaction standard that would apply to all health plans, not just state Medicaid agencies. As we discuss in section III.B. of this proposed rule, Version 10 would be a modification for state Medicaid agencies, which would be moving to Version 10 from Version 3.0. For all other health plans, Version 10 would be an initial standard. As previously noted, section 1175(b)(2) of the Act addresses the timeframe for compliance with modified standards. That section requires the Secretary to set the compliance date for a modification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification, but no sooner than 180 days after the effective date of the final rule in which we adopt that modification. Section 1175(b)(1) of the Act requires that the compliance date for initial standards—which Version 10 would be for covered entities that are not state Medicaid agencies—is no later than 24 months after the date of adoption for all covered entities, except small health plans, which must comply no later than 36 months after adoption.

We are proposing to align the compliance dates for state Medicaid agencies and all other health plans (except small health plans) to comply with Version 10. Should we not to do this, some health plans would need to use Version 10 at the same time as state Medicaid agencies in order to conduct Pharmacy subrogation transactions with those state Medicaid agencies, while other health plans could use different standards. Aligning the compliance timeframes would reduce confusion and administrative burden that would arise were there concurrent standards in effect. Thus, we propose to require all health plans (except small health plans) to comply at the same time. The alignment of compliance dates also makes it more feasible for state Medicaid agencies and non-Medicaid health plans to invest in system upgrades to accommodate one specific standard rather than divide resources to maintain two concurrent transaction standards. Therefore, we propose to revise § 162.1902(b) to reflect that all health plans, except small health plans, would be required to comply with Version 10 for Pharmacy subrogation transactions 24 months after the effective date of the final rule. We would also revise § 162.1902(a) to reflect that state Medicaid agencies would be required to comply with the current standard, Version 3.0, until the compliance date of Version 10.

Small health plans, as defined in 45 CFR 160.103, are those health plans with annual receipts of $5 million or less. In accordance with section 1175(b)(1) of the Act, we are proposing that small health plans, other than small health plans that are state Medicaid agencies, would be required to comply with the new standard 36 months after the effective date of the final rule.

We solicit industry and other stakeholder comments on our proposed compliance dates.

D. Proposed Incorporation by Reference

This proposed rule proposes to incorporate by reference: (1) the Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020; (2) equivalent Batch Standard Implementation Guide, Version 15 (Version 15) October 2017; and (3) the Batch Standard Subrogation Implementation Guide, Version 10 (Version 10), September 2019 National Council for Prescription Drug Programs.

The Telecommunication Standard Implementation Guide, Version 6 contains the formats, billing units, and operating rules used for real-time pharmacy claims submission. The equivalent Batch Standard Implementation Guide, Version 15, provides instructions on the batch file submission standard that is to be used between pharmacies and processors or among pharmacies and processors. Both implementation guides contain the data dictionary, which provides a full reference to fields and values used in telecommunication and its equivalent batch standard.

The Batch Subrogation Implementation Guide, Version 10, is intended to meet business needs when a health plan has paid a claim that is subsequently determined to be the responsibility of another health plan within the pharmacy services sector. This guide provides practical guidelines for software developers throughout the industry as they begin to implement the subrogation transaction, and to ensure a consistent implementation throughout the pharmacy industry.

The materials we propose to incorporate by reference are available to interested parties and can be inspected at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD 21244–1850. Copies may be obtained from the National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale, AZ 85260. Telephone (480) 477–1000; FAX (480) 767–1042. They are also available through the internet at *https://www.ncpdp.org.* A fee is charged for all NCPDP Implementation Guides. Charging for such publications is consistent with the policies of other publishers of standards. If we wish to adopt any changes in this edition of the Code, we would submit the revised document to notice and comment rulemaking.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

A. Submission of Paperwork Reduction Act (PRA)-Related Comments

In this proposed rule we are soliciting public comment on each of these issues for the following sections of the rule that contain proposed ''collection of information'' requirements as defined under 5 CFR 1320.3(c) of the PRA's implementing regulations. If regulations impose administrative costs on reviewers, such as the time needed to read and interpret this proposed rule, then we should estimate the cost associated with regulatory review. We estimate there are currently 104 affected entities (which also includes PBMs and vendors), (416 reviewers total). We assume each entity will have four designated staff members who will review the entire proposed rule. The particular staff members involved in this review will vary from entity to entity, but will generally consist of lawyers responsible for compliance activities and individuals familiar with the NCPDP standards at the level of a

computer and information systems manager.

In this proposed rule we are soliciting public comment on each of these issues for the following sections of the rule that contain proposed ''collection of information'' requirements as defined under 5 CFR 1320.3(c) of the PRA's implementing regulations. If regulations impose administrative costs on reviewers, such as the time needed to read and interpret this proposed, then we should estimate the cost associated with regulatory review. We estimate there are 104 affected entities (which also includes PBMs and vendors). We assume each entity will have four designated staff member who would review the entire rule, for a total of 416 reviewers. The particular staff involved in this review will vary from entity to entity, but will generally consist individuals familiar with the NCPDP standards at the level of a computer and information systems manager and lawyers responsible for compliance activities.

Using the wage information from the Bureau of Labor Statistics (BLS) for computer and information systems managers (code 11–3021), we estimate that the labor cost of having two computer and information systems managers reviewing this proposed rule is $95.56 per hour, including fringe benefits and overhead costs (*https://www.bls.gov/oes/current/oes_nat.htm*). Assuming an average reading speed, we estimate that it will take approximately 4 hours for the two computer and information systems managers to review this proposed rule. For each entity that has two computer and information systems managers reviewing this proposed rule, the estimated cost is, therefore, $764.48 (4 hours × $95.56 × 2 staff). Therefore, we estimate that the total cost of when two computer and information systems manager review this proposed rule is $78,742 ($764.48 × 104 entities).

We are also assuming that an entity would have two lawyers reviewing this proposed rule. Using the wage information from the BLS for lawyers (code 23–1011), we estimate that their cost of reviewing this proposed rule is $113.12 per hour per lawyer, including fringe benefits and overhead costs (*https://www.bls.gov/oes/current/oes_nat.htm*). Assuming an average reading speed, we estimate that it will take approximately 4 hours for two lawyers to review this proposed rule. For each entity that has two lawyers reviewing this proposed rule, the estimated cost is, therefore, $904.96 (4 hours × $113.12 × 2 staff). Therefore, we estimate that the total cost of when two lawyers reviews this proposed rule is $93,211 ($904.96 × 104 entities).

We solicit comments on our assumptions and calculations.

B. Modification to Retail Pharmacy Standards (Information Collection Requirement (ICR))

The following requirements and burden associated with the information collection requirements contained in §§ 162.1102, 162.1202, 162.1302, 162.1802, and 162.1902 of this document are subject to the PRA; however, this one-time burden was previously approved and accounted for in the information collection request previously approved under OMB control number 0938–0866 and titled ''CMS–R–218: HIPAA Standards for Coding Electronic Transactions.''

OMB has determined that the establishment of standards for electronic transactions under HIPAA (which mandate that the private sector disclose information and do so in a particular format) constitutes an agency-sponsored third-party disclosure as defined under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). (See 65 FR 50350 (August 17, 2000)) With respect to the scope of its review under the PRA, however, OMB has concluded that its review would be limited to the review and approval of initial standards, and to changes in industry standards that would substantially reduce administrative costs. (See 65 FR 50350 (August 17, 2000)) This document, which proposes to update adopted electronic transaction standards that are being used, would usually constitute an information collection requirement because it would require third-party disclosures. However, because of OMB's determination, as previously noted, there is no need for OMB review under the PRA. But see 5 CFR 1320.3(b)(2) (time, effort, and financial resources necessary to comply with an information collection that would otherwise be incurred in the normal course of business can be excluded from PRA ''burden'' if the agency demonstrates that such activities needed to comply with the information collection are usual and customary).

Should our assumptions be incorrect, this information collection request will be revised and reinstated to incorporate any proposed additional transaction standards and proposed modifications to transaction standards that were previously covered in the PRA package associated with OMB approval number 0938–0866.

V. Regulatory Impact Analysis

A. Statement of Need

This rule proposes modifications and an initial adoption to standards for electronic retail pharmacy transactions adopted under the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under HIPAA, the National Committee on Vital and Health Statistics (NCVHS) recommends standards and operating rules to the Secretary of the Department of Health and Human Services (HHS) following review and approval of standards or updates to standards from the applicable SSO—in this case, the National Council for Prescription Drug Programs (NCPDP). The HHS Secretary must generally promulgate notice and comment rulemaking to adopt new or updated standards before they can be utilized to improve industry processes.

On May 17, 2018, the NCVHS recommended that the Secretary adopt the NCPDP Telecommunications Implementation Guide Version F2 (Version F2) and two related batch standards: Batch Standard Implementation Guide, Version 15, and the Batch Standard Subrogation Implementation Guide, Version 10 (Version 10). On April 22, 2020, the NCVHS recommended that the Secretary adopt NCPDP Telecommunications Implementation Guide Version F6 (Version F6) in lieu of Version F2, as well as the two batch standard recommendations set forth in the May 2018 letter. (For purposes of this analysis, Version F6 and its equivalent Batch Standard Version 15 are collectively referred to as Version F6.) These standards have been developed through consensus-based processes and subjected to public comment which indicated, without opposition, that the updates are required for current and future business processes. Based on informal communication with industry, should the updates to the standards not be adopted, industry will need to continue using NCPDP Version D.0 and the associated work arounds, including manual claims processing and claims splitting for drugs priced at or in excess of $1 million.

B. Overall Impact

We have examined the proposed impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (September

19, 1980; Pub. L. 96–35496354), Executive Order 13272 on Proper Consideration of Small Entities in Agency Rulemaking (August 13, 2002), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as economically significant); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

A Regulatory Impact Analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This proposed rule is anticipated to have an annual effect on the economy in costs, benefits, or transfers of $100 million or more. Based on our estimates, OMB's Office of Information and Regulatory Affairs has determined this rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act).

We have prepared an RIA that, to the best of our ability, presents the costs and benefits of this proposed rulemaking. We anticipate that the adoption of these new versions of the retail pharmacy standard would result in costs that would be outweighed by the benefits.

C. Limitations of the Analysis

1. Data Sources

This portion of the analysis is based in part on industry research conducted in 2019 and 2020 by the CMS Alliance to Modernize Healthcare (CAMH), a Federally Funded Research and Development Center, to assess the costs and benefits associated with the potential adoption of Versions F2 and F6. As part of this effort, CAMH did the following: identified the relevant stakeholders that would be affected by the adoption of a new HIPAA standard for retail pharmacy drug transactions; obtained expert opinion, expressed qualitatively and quantitatively, on impacts on affected stakeholders of moving from the current version to the updated standards; and developed a high-level aggregate estimate of stakeholder impacts, based on available information from public sources and interviews. References to conversations with industry stakeholders in this section of the proposed rule are based on the interviews conducted by CAMH unless otherwise noted.

In conversations with industry stakeholders, we have been informed that entity-specific financial impact analyses of modifications to HIPAA transaction standards are not initiated until formal HHS rulemaking has been initiated, since proposed timing is a critical variable in cost development. For instance, in public comments submitted to the NCVHS,[9] the NCPDP urged that a timeline be communicated as soon as possible to allow stakeholders to begin budgeting, planning, development work, and coordinating the necessary trading partner agreements. Another commenter noted that corporate information technology (IT) budgets and timelines are dependent on the rulemaking process. We further understand that stakeholders likely would choose to implement only components of standards relevant to their business use cases, such that irrelevant components (and any additional expense they might require) may simply be disregarded.

In lieu of financial cost estimates, industry stakeholders have provided preliminary assessments that the conversion to Version F6 would entail between two to four times the level of effort as the previous HIPAA pharmacy standard conversion from Version 5.1 to Version D.0. But, we do not have reliable baseline data on the actual costs of that previous conversion to which to apply the multipliers because we: (1) are not aware of any available information on the final costs of the conversion to Version D.0; (2) have been told that stakeholders do not track expenditures in this way; and (3) our previous regulatory estimates combined the Version D.0 implementation with the concurrent X12 Version 5010 conversion, and so would be ambiguous at best. Moreover, as discussed in connection with comments received on the 2009 Modifications proposed rule generally, many commenters mentioned underestimated costs or overestimated benefits of transitioning to the new versions, but few provided substantive data to improve the regulatory estimates.[10] Therefore, we use certain estimates provided in public comments reported in the 2009 Modifications final rule as the starting point for our cost estimates. Our general approach is to develop estimates of the true baseline D.0 conversion costs and then apply a Version F6 multiplier.

With respect to benefits, we are not aware of any available information or testimony specifically quantifying cost savings or other benefits, although there is ample testimony supporting the business need and benefits of the proposed changes.

2. Interpreting Cost

Standard economics recognizes cost in several different ways. Marginal cost describes the resources needed to produce one additional unit of a good. Rule-induced costs may include new inputs of labor, materials, capital, etc.; but exclude sunk costs (already invested). The recommended methodology for a RIA considers government intervention to impose costs.[11] It assumes that stakeholders must make new expenditures to change their business systems. Under this interpretation, pharmacies and vendors would hire coders and other software development and testing specialists or consultants to modify their production code to accommodate Version F6. This one-time, out-of-pocket expenditure would constitute a cost attributable to the proposed rule. Costs to transmit transactions using the F6 standard after business systems have been modified to implement the proposed standard, as

[9] NCVHS Subcommittee on Standards Comments Received in Response to Request for Comment **Federal Register** Notice 85 FR 11375. *https://ncvhs.hhs.gov/wp-content/uploads/2020/03/Public-Comments-NCPDP-Change-Request-March-2020.pdf.*

[10] 74 FR 3314 (January 16, 2009); see also ''Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards'' proposed rule (73 FR 49796 (August 22, 2008)) (hereinafter referred to as the 2009 Modifications proposed rule).

[11] *aspe.hhs.gov/pdf-report/guidelines-regulatory-impact-analysis.*

well as costs to maintain those systems for compliance with the standard, were not factored into this RIA. These ongoing costs are currently incurred by affected entities that are required to use the current standard and are attributable to conducting electronic transactions in general. Therefore, in this RIA, we do not anticipate any costs attributable to the proposed rule after completion of the proposed 2-year compliance timeframe. We solicit comment, including industry comment, on our cost interpretations.

Opportunity cost refers to the benefits forgone by choosing one course of action instead of an alternative. A business that invests in venture X loses the opportunity to use those same funds for venture Y. Based on oral and written NCVHS testimony by the retail pharmacy industry and pharmacy management system vendors, it was suggested that their software development process for a HIPAA standard conversion would represent an opportunity cost. For instance, some large pharmacy chains maintain permanent technical staff to make day-to-day changes in their pharmacy management systems and management adjusts staff assignments according to the organization's needs. HIPAA standard transaction version changes like the proposed Version F6 implementation, would, we believe, shift priorities for these staff, potentially delaying other improvements or projects. In this scenario, the opportunity cost consists of the time-value of delayed projects. Other pharmacy firms have an ongoing relationship with their pharmacy management software vendors. The purchaser generally obtains a hardware and software package with an ongoing agreement that includes periodic payments for maintenance, updates, upgrades, training, installation, financing, etc. Thus, the software is expected to evolve, rather than being just a one-time installation. The balance between upfront charges and monthly maintenance fees more closely resembles a multiyear lease than the one-time sale of an off-the-shelf application to a consumer. Thus, the parties often contemplate an ongoing supplier relationship in which maintenance and upgrades represent an opportunity cost.

Average cost equals total cost divided by the total units of production. Average costs for goods and labor come from industry surveys and public reports. Researchers can determine average cost relatively easily, whereas marginal cost would require complex analyses of a particular industry, firm, or production volume. This RIA uses average costs because of their availability and verifiability.

However, the proposed changes to adopt Version F6 and Version 10 generally do not require new out-of-pocket expenditures, so average cost may not describe the realities of actual budget impacts to firms. We seek comment on these assumptions.

D. Anticipated Effects

The objective of this RIA is to summarize the costs and benefits of the following proposals:

- Adopting modified real time and batch standards for retail pharmacy transactions for health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits, transitioning from Telecommunications Standard Version D.0 to Version F6.
- Adopting a new pharmacy subrogation transaction standard, replacing the Batch Standard Medicaid Subrogation Implementation Guide, Version 3, with the Batch Standard Subrogation Implementation Guide, Version 10, applicable to all prescription drug payers.

Consistent with statutory and regulatory requirements, the NCVHS recommends HIPAA standards, which are developed by Standard Setting Organizations (SSOs), in this case the NCPDP, through an extensive consensus-driven process that is open to all interested stakeholders. The standards development process involves direct participatory input from representatives of the industry stakeholders required to utilize the transactions, including pharmacies (chain and independent), health plans and other payers, PBMs, and other vendors that support related services. We are not aware of any opposition to moving forward with these updates.

We are proposing a 2-year compliance date following the effective date of the final rule. For purposes of this analysis, we assume a 2-year implementation period. The remainder of this section provides details supporting the cost-benefit analysis for each of the proposals referenced previously.

Table 1 is the compilation of the estimated costs for all of the standards being proposed in this rule. To allocate costs over the proposed 2-year implementation period, we assumed a 50–50 percent allocation of IT expenses across the 2-year implementation period and all training expenses in the second year. However, this is just an informed guess, as we did not locate any source information on this assumption. We note again that we are not aware of any data or testimony describing quantifiable benefits or cost savings attributable to these proposals, and have solicited comments on whether there are significant quantifiable benefits or cost savings that should be included in our analysis.

TABLE 1. ESTIMATED COSTS ($ MILLIONS) FOR YEARS 2023 THROUGH 2032 FOR IMPLEMENTATION OF VERSIONS F6 AND VERSION 10 (S10)

Cost Type	Industry	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
F6	Chain Pharmacy	43.5	52.1	---	---	---	---	---	---	---	---	95.6
	Independent Pharmacy	---	61.0	---	---	---	---	---	---	---	---	61.0
	Health Plan	---	---	---	---	---	---	---	---	---	---	---
	PBM	64	64	---	---	---	---	---	---	---	---	128.0
	Vendors*	47.2	52.5	---	---	---	---	---	---	---	---	99.7
S10	Health Plan	---	---	---	---	---	---	---	---	---	---	
	Medicaid Agency	---	---	---	---	---	---	---	---	---	---	
	PBM	---	---	---	---	---	---	---	---	---	---	
	Vendors	1.0	1.0	---								2.0
	Annual Total	**155.7**	**230.6**	---								**386.3**
											Total	**386.3**

*Vendors" as used in Table 1 refers to pharmacy management system and telecommunication system vendors.

1. Adoption of Version F6 (Including Equivalent Batch Standard Version 15)

The objective of this portion of the RIA is to summarize the costs and benefits of implementing Version F6. We invite the industry or other interested entities or individuals to comment on all of our assumptions and projected cost estimates, and to provide current data to support alternative theories or viewpoints throughout.

a. Affected Entities

Almost all pharmacies and all intermediaries that transfer and process pharmacy claim-related information already use Version D.0 for eligibility verification, claim and service billing, prior authorization, predetermination of benefits, and information reporting transaction exchanges (the latter two categories are not HIPAA-adopted pharmacy standards). Pharmacies utilize technology referred to as pharmacy management systems that encode Version D.0 to submit these transactions for reimbursement on behalf of patients who have prescription drug benefits through health and/or drug plan insurance coverage (health plans). These submissions are generally routed through two intermediaries: a telecommunication switching vendor (switch) and a specialized third-party administrator for the health plan, generally a PBM. Billing transactions may occur in one of two modes: real time or batch. Pharmacy claims are generally transacted in real time as a prerequisite to dispensing prescription medications. For instance, Medicare Part D rules generally require each claim to be submitted online in real time to permit accumulator balances to be updated after every claim so cost sharing on each subsequent claim will accurately reflect changes in benefit phases. The equivalent batch standard enables transmission of non-real-time transactions. For instance, a batch submission could be sent following a period when real-time response systems were unavailable or following a retrospective change in coverage. Technically, the batch standard uses the same syntax, formatting, data set, and rules as the telecommunications standard, ''wraps'' the telecommunication standard around a detail record, and then adds a batch header and trailer to form a batch file. The claims processor may then process the batch file either within a real-time system or in a batch-scheduling environment.

Based on the 2017 Census business data, pharmacies have a bimodal size distribution. About 99 percent of firms have a single location, predominantly the traditional independent, owner-operated storefront and the remainder of fewer than 200 large firms operate an average of approximately 150 establishments (locations) each. According to other industry data, the largest five chain pharmacy firms represent over 28,000 locations, and the two largest chains each exceed 9,000 locations.[12] However, the Census business data's Pharmacy and Drug Store segment (North American Industry Classification System (NAICS) code 446110) does not capture all pharmacy firms affected by this proposed rule. While we believe this source is enough to capture most small pharmacies, we need another data source to capture the additional larger firms.

Pharmacies are typically classified by ownership as either chain or independents. Health data analytics company IQVIA estimated [13] in 2019 that there were 88,181 pharmacies, of which 55 percent (48,196) were part of chains and 45 percent (39,985) were independents. Open-door retail pharmacies, which provide access to the general public, comprised the clear majority of pharmacy facility types at 91 percent (80,057). The five largest pharmacy chains owned about 35 percent (close to 28,000) of retail locations. The remaining 8 percent of facility types included closed-door pharmacies, which provide pharmaceutical care to a defined or exclusive group of patients because they are treated or have an affiliation with a special entity such as a long-term-care facility, as well as central fill, compounding, internet, mail service, and hospital-based nuclear and outpatient pharmacies. Most of these pharmacy types may be included in Medicare Part D sponsor networks. We are aware that the largest pharmacy chains are increasingly likely to operate multiple pharmacy business segments (channels), such as retail, mail, specialty, and long-term care. However, we are not aware of information that would allow us to treat these non-open-door retail pharmacy firm types any more granularly than our usual chain and independent categories. We welcome comments on whether there are meaningful distinctions in cost structures that should be considered, as well as on any publicly available data sources to assist in quantifying entities in these segments and any potential differential impacts.

As noted, pharmacies utilize pharmacy management systems to encode Version D.0 for claim-related data exchanges via telecommunication switches. Pharmacies that do not internally develop and maintain their pharmacy management systems will contract with technology vendors for these services. Based in part on communications with industry representatives, such as the American Society for Automation in Pharmacy, we believe there are approximately 30 technology firms providing computer system design, hosting, and maintenance services in this market. Based on testimony provided to the NCVHS, in 2018 this market represented approximately 180 different software products.[14] Some pharmacies may also utilize other vendors, generally clearinghouses, for mapping Version D.0 claims to the X12 837 claim format (for instance, to bill certain Medicare Part B claims). However, since mapping between the X12 and NCPDP standards is not an element of Version F6, we do not consider this practice in scope for this proposed rule and do not account for it in this RIA.

Pharmacies also contract with telecommunication switches for transaction routing. In addition to routing, switches validate the format of pharmacy transactions prior to transmission to the payer and then check the payer response to make sure it is formatted correctly for the pharmacy to interpret. Based on conversations with industry representatives, we believe there are three telecommunication switches in this segment of the market.

Some healthcare providers that dispense medications directly to their patients, known as dispensing physicians, may use Version D.0 to submit these outpatient prescription drug claims on behalf of their patients to health plans via health plans' PBMs. However, we do not believe this practice to be widespread and therefore do not account for it in this RIA.

Health plans generally provide some coverage for outpatient prescription drugs, but do not generally contract and transact with pharmacies directly. Instead, health plans typically contract with PBM firms to receive and process pharmacy claim transactions for their enrollees. We assume even the relatively

[12] 2019 ''U.S. National Pharmacy Market Summary.'' IQVIA. *https://www.onekeydata.com/downloads/reports/IQVIA_Report_US_Pharmacy_Market_Report_2019.pdf.*

[13] 2019 ''U.S. National Pharmacy Market Summary.'' IQVIA. *https://www.onekeydata.com/downloads/reports/IQVIA_Report_US_Pharmacy_Market_Report_2019.pdf.*

[14] NCVHS Hearing on NCPDP Standards and Updates—March 26, 2018 Virtual Meeting. *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-march-26-2018-hearing-on-ncpdp-standards-and-updates/.*

few health plans that directly purchase prescription drugs for their own pharmacies utilize PBMs, either owned or contracted, to manage billing for drugs and pharmacy supplies. Likewise, the Department of Veterans Affairs (VA) Pharmacy Benefits Management Services (VA PBM) runs its own PBM unit for VA prescription drug operations.

As previously noted, in 2017 there were 745 Direct Health and Medical Insurance Carriers and 27 Health Maintenance Organization (HMO) Medical Centers—a total of 772 health plan firms. Comparable data limited specifically to PBMs is not available, but based on Part D experience, we estimate that approximately 40 firms conduct some PBM functions involved with processing some pharmacy claim transactions. Based on testimony provided to the NCVHS, in 2018 these 40 firms represented approximately 700 different payer sheets,[15] or payer-specific endpoints and requirements for submitting pharmacy claims. Industry analysis by Drug Channels Institute's website based on 2018 data [16] indicated that the top six PBMs controlled approximately 95 percent of total U.S. equivalent prescription claims, and the top three PBMs controlled 75 percent. We assume that the VA PBM is in addition to these numbers, but that Medicaid claim processing PBMs are included in the 40 firms. Industry trends include significant consolidation of firms in these sectors and vertical integration among health plans, PBMs, and pharmacies.

b. Costs

(1) Chain Pharmacies

Pharmacies either internally develop or externally purchase pharmacy management information systems to bill and communicate with PBMs. Based on public comments related to Version F6 submitted to the NCHVS, available at *https://ncvhs.hhs.gov/wp-content/uploads/2020/03/Public-Comments-NCPDP-Change-Request-March-2020.pdf,* we are aware that some chain pharmacy firms (with as many as 1,800 pharmacies) utilize systems managed by third-party technology vendors. For purposes of this RIA, we assume that, generally, the largest chain pharmacy firms internally develop and manage their own pharmacy management system upgrades and transaction standard conversion development, implementation, testing, and training. We further assume that these costs are generally incurred at the firm level. Based on the 2019 IQVIA data, the top 25 pharmacy firms accounted for 38,464 stores. If these top 25 firms represented chain-owned entities, they represented almost 80 percent (38,464/48,196) of total chain pharmacy stores in 2019. We assume these 25 firms, as well as the VA and the Indian Health Service (IHS), would finance and manage their pharmacy system conversion requirements internally, and the remainder of chain pharmacy firms would rely on their technology vendor for technical development, implementation, testing, and initial training.

To determine whether our assumptions were reasonable, we met with representatives from IHS. Based on those conversations, we understand that IHS, tribal, and urban (I/T/U) facilities with pharmacies would have multiple Version F6 implementation scenarios. Although these facilities are not legally chain pharmacies, we believe their implementation costs may be roughly similar and, thus, we treat I/T/U facilities with pharmacies under this category for this analysis. IHS manages a significant federal health information technology (HIT) system with a suite of modules, including pharmacy dispensing and billing, that supports IHS pharmacies, as well at least 16 urban entities and 114 tribal entities; however not all of these entities include pharmacies. In contrast to other pharmacy entities treated as chain pharmacies, we understand that additional budget funding may be required for IHS to implement Version F6 within the proposed implementation timeframe. We estimate that IHS would incur implementation costs at a level roughly equivalent to the VA system, and that this expense would be a marginal cost for the IHS. We also understand that approximately another 60 tribal entities and another 25 urban entities do not utilize the federal system, but, rather, contract with commercial vendors for HIT; although again, not all of these entities operate their own pharmacies. As a result, we estimate that about 60 percent of these smaller I/T/U entities (51) would rely on existing maintenance agreements with commercial vendors for implementation and, like smaller chain pharmacies, would incur direct implementation costs to support user training costs. We solicit comments on our assumptions.

In the 2017 Census business data there were 190 firms classified as Pharmacies and Drug Stores with more than 500 employees, representing 27,123 establishments. This classification does not include grocery store pharmacies, which were elsewhere reported to number 9,026 in 2017, and to be decreasingly offered by smaller grocery chains in 2020.[17] The 2017 Census business data includes 72 firms classified as Supermarkets and Other Grocery (except Convenience) Stores with more than 5,000 employees, which we assume is a proxy for the number of such firms still offering grocery store pharmacies in 2020. (The Census Bureau and Bureau of Labor Statistics [BLS] include ''big box'' department stores in this category.) Thus, we assume a total of 262 (190+72) chain pharmacy firms based on this data. Since we assume 25 firms would manage their Version F6 conversion costs internally, we estimate the remainder of 237 (262 − 25) would rely upon their technology vendor. As an alternative data point, Drug Channels Institute estimated that the top 15 pharmacy organizations in 2019 represented over 76 percent market share in revenues.[18] Although there is not complete consistency between the top organizations listed in the two analyses, both tend to support a view of the set of market participants as heavily skewed toward smaller firms, with the very largest firms likely to have multiple pharmacy channel segments.

Based on conversations with a variety of industry representatives, we understand that these larger firms retain the technical staff and/or contractors that would undertake the Version F6 conversion efforts as an ongoing business expense. Consequently, in practice the cost estimates developed in this section do not represent new additional expenditures for these firms, but rather opportunity costs for these resources that would otherwise be deployed on other maintenance or enhancement projects.

As previously noted, industry estimates of the costs of a conversion

[15] NCVHS Hearing on NCPDP Standards and Updates—March 26, 2018 Virtual Meeting. *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-march-26-2018-hearing-on-ncpdp-standards-and-updates/.*

[16] CVS, Express Scripts, and the Evolution of the PBM Business Model. Drug Channels. May 29, 2019. *https://www.drugchannels.net/2019/05/cvs-express-scripts-and-evolution-of.html.*

[17] The Pharmacist Is Out: Supermarkets Close Pharmacy Counters: *Regional grocery chains get squeezed by consolidation, shrinking profits in prescription drugs.* By Sharon Terlep and Jaewon Kang. Wall Street Journal. Updated Jan. 27, 2020 6:18 p.m. ET. Accessed 10/13/2020 at: *https://www.wsj.com/articles/the-pharmacist-is-out-supermarkets-close-pharmacy-counters-11580034600?mod=business_lead_pos3&utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosvitals&stream=top.*

[18] The Top 15 U.S. Pharmacies of 2019: Specialty Drugs Drive the Industry's Evolution. Drug Channels Institute. Published March 3, 2020. *https://www.drugchannels.net/2020/03/the-top-15-us-pharmacies-of-2019.html.*

from current Version D.0 to Version F6 have been in the form of multiples of the costs for the Version 5.1 to Version D.0 conversion. As a technical matter, we assume these informal multiples account for inflation. In a presentation to the NCVHS,[19] the NCPDP indicated that stakeholders' input indicated the level of effort and cost for Version F6 to be at least double that of implementing NCPDP D.0. In public comments to the NCVHS, a chain pharmacy association stated that implementation costs would vary significantly among different pharmacy chains based on size, scope of services provided, and business models, and that hardware, software, and maintenance costs allocated specifically to Version F6 are estimated to be in the tens of millions of dollars. One of the largest pharmacy chains estimated costs associated with Version F6 implementation to be three to four times higher than the implementation of Version D.0, also in the tens of millions of dollars. This commenter explained that much of these higher costs is related to the expanded dollar fields, the structure of new fields that require database expansion, and updates to many integrated systems. Another of the largest pharmacy chains with integrated PBM functions offered preliminary estimates in the range of two to three times greater than the Version D.0 conversion, and noted that the expanded dollar fields would impact all of the following systems: point of service claim adjudication, all associated financial systems, internal and external reporting programs, help desk programs, member/client portals, and integrated data feeds. This same stakeholder stated that the size of the transactions has also increased considerably due to the inclusion of new segments and repeating fields and would require new database storage hardware.

The 2009 Modifications final rule discussed receiving estimates of $1.5 million and $2 million from two large national pharmacy chains and elected to use an estimate of $1 million for large pharmacy chains and $100,000 for small pharmacy chains in the first implementation year. That rule also discussed a few public comments disputing these large chain estimates,[20] suggesting in one case an alternative $2 million estimate inclusive of Version 5010 costs, and, in another, a 2-year cost of $4.9 million without specification of which costs were included. Another retail pharmacy commenter that self-identified as neither a chain nor an independent estimated a cost of implementation of both standards of $250,000, with 90 percent of the cost attributable to Version 5010 and, thus, $25,000 attributable to Version D.0. Using these estimates, we develop a rough estimate of the true baseline D.0 conversion costs and then apply a Version F6 multiplier. We solicit comments on the appropriateness of this approach.

We believe that Version F6 conversion costs for chain pharmacies would be differentiated in three general categories: (1) the largest firms operating in multiple pharmacy channels; (2) other midsize retail pharmacy chain firms operating primarily in either the open-door retail and/or another single pharmacy channel; and (3) smaller chain pharmacy firms. Starting with the point estimates discussed in the Version D.0 rulemaking and making some upward adjustments to address potential underestimation, we estimate that—

- The two largest chain pharmacy firms incurred a baseline (D.0) cost of $2 million;
- The 23 midsize chain pharmacy firms, the VA and IHS pharmacy operations incurred a baseline cost of $1 million; and
- The 237 smaller chain pharmacy firms incurred a baseline cost of $25,000.

Based on the 2x–4x multiplier estimates described previously, we assume a midpoint 3x multiplier for the estimated 25 larger chain pharmacies and the VA that would finance and manage their system conversion requirements internally; consequently, we estimate that over the 2-year implementation period:

- Two chain pharmacy firms would incur all internal Version F6 conversion costs of (3*2 million), or $6 million each.
- The 25 chain pharmacy-sized firms (23 midsized chains, the VA and IHS) would incur all internal Version F6 conversion costs of (3*1 mil), or $3 million each.

Based on a CAMH environmental scan conducted with industry representatives, we understand that most pharmacy firms rely on their pharmacy management system vendor for conversion planning, development, implementation, testing, and initial (primary) training. CAMH suggested that pharmacies would likely need to make some investments in staff training, but would likely not have an increase in direct upfront software costs because system software updates are usually factored into the ongoing contractual fees for operating and maintenance costs of their pharmacy systems. Thus, we understand that HIPAA modification efforts are generally already priced into vendor maintenance agreements and fee structures, and we assume there would be no increases specifically due to the Version F6 conversion in these ongoing costs to pharmacies. We assume that primary training is developed or purchased at the firm level and may deploy at the establishment level in secondary employee in-service training slots. We assume that this training does not scale along with the conversion costs, but rather with the size of the organization in terms of locations and employees. As summarized in Table 2, using the generally uncontested estimates from the Version D.0 rulemaking adjusted for inflation,[21] we estimate that: 237 smaller chain pharmacy firms and 51 urban and tribal entity pharmacies (a total of 288 pharmacies) would incur Version F6 conversion training costs of ($25,000 × 1.20) or $30,000 each on average, generally in the second year of the 2-year implementation period.

We invite public comments on our general assumptions and request any additional data that would help us determine more accurately the impact on the pricing structures of entities affected by this proposed rule.

[19] NCVHS Full Committee Hearing, March 24–25, 2020. *https://ncvhs.hhs.gov/meetings/full-committee-meeting-4/.*

[20] 74 FR 3319 (January 16, 2009).

[21] Based on inflation from January 2010 to September 2020: *https://www.bls.gov/data/inflation_calculator.htm.*

TABLE 2. CHAIN PHARMACY COSTS OF CONVERSION TO VERSION F6

Version F6 Conversion Cost Category by Chain Size	D.0 Cost Baseline ($ in millions)	Inflation Adjustment to Baseline	Adjusted D.0 Baseline ($ in millions)	D.0 Cost Multiplier for Version F6	Conversion Cost Per Entity ($ in millions)	Number of Affected Entities	Total F6 Conversion Costs ($ in millions)
All (largest)	2.0	N/A	2.0	3	6.0	2	12.0
All (midsize)	1.0	N/A	1.0	3	3.0	25	75.0
User Training (smaller)	0.025	1.2	0.03	N/A	0.03	288	8.6
Total						315	95.6

(2) Independent Pharmacies

As noted previously, the 2019 IQVIA data included 88,181 pharmacies, of which 45 percent (39,985) were independently owned. We recognize that this classification is not identical to the use of the term independent community pharmacy; however, we are not aware of publicly available data to help us segment this market further. We know from Census business data that in 2017 there were 19,044 pharmacy firms with fewer than 500 employees, representing 20,901 establishments. Just as we assume that the firms with more than 500 employees represent chains, we assume that those with fewer than 500 employees represent independently owned open- or closed-door pharmacies.

We understand that these smaller pharmacies predominantly rely on their pharmacy system vendors for upgrades, including HIPAA standard version conversion planning, development, implementation, testing, and primary training. In return, they pay ongoing maintenance and transaction fees. As discussed previously with respect to some chain pharmacies, we understand that Version F6 conversion efforts would already be priced into existing maintenance agreements and fee structures. Therefore, we do not assume increases in these ongoing costs to independent pharmacies as the result of the Version F6 conversion, and we estimate pharmacy direct costs would generally be comprised of training and other miscellaneous expenses. As with chain pharmacies, we assume that primary training is developed or purchased at the firm level and deployed at the establishment level in secondary employee in-service training slots. We further assume that this training does not scale along with the conversion costs, but, rather, with the size of the organization in terms of locations and employees. For this reason, we assume that the few system users in very small pharmacies would be trained directly by the pharmacy management system vendor, and no secondary training costs would be required for such small firms.

As noted previously, a commenter on the 2009 Modification proposed rule [22] that self-identified as neither a chain nor an independent pharmacy estimated implementation costs of both Version 5010 and Version D.0 standards of $250,000, with 90 percent of the costs attributable to Version 5010. Thus, one non-chain pharmacy estimated conversion costs for Version D.0 of about $25,000. Although we do not know the size or complexity of this organization, this level would not be inconsistent with our understanding that the costs of an NCPDP Telecommunication Standard conversion would be borne by the pharmacy management system vendors and that smaller pharmacy conversion costs would consist primarily of user training expense. Referring to the 2017 Census business data, almost 90 percent (17,016 out of 19,044) of these pharmacy firms had fewer than 20 employees, while the remainder (2,028) had between 20 and 499. Therefore, we assume that 17,016 small pharmacy firms would incur opportunity costs for employee time spent in training and 2,028 pharmacy firms would incur secondary training expenses. As summarized in Table 3, assuming baseline training costs per independent pharmacy with 20 or more employees of $25,000, and a cumulative inflation adjustment of 20 percent,[23] we estimate that 2,028 independently owned pharmacies would incur Version F6 conversion training costs of ($25,000 × 1.20) or $30,000 each on average, in the second year of the 2-year implementation period

TABLE 3. INDEPENDENT PHARMACY COSTS OF CONVERSION TO VERSION F6

Version F6 Conversion Cost Category	D.0 Cost Baseline ($ in millions)	Inflation Adjustment to Baseline	Adjusted D.0 Baseline ($ in millions)	D.0 Cost Multiplier for Version F6	Conversion Cost Per Entity ($ in millions)	Number of Affected Entities	Total F6 Conversion Costs ($ in millions)
User Training	0.025	1.2	0.03	N/A	0.03	2,028	61

(3) Health Plans and PBMs

We anticipate that health plans should see minimal changes in their operations and workflows between Version D.0 and Version F6. Health plans contract with processors/PBMs for conducting online eligibility verification, claim and service billing, predetermination of benefits, prior authorization, and information reporting transaction exchange types and transaction record storage. While health plans (or their other vendors) supply PBMs with eligibility records and receive data from PBMs containing data derived from claims, they are not typically parties to the exchange of the HIPAA pharmacy transactions. Based on NCVHS testimony with stakeholders and in development of an environmental scan on the impact of this update to the pharmacy standards, we understand that HIPAA standard conversion costs are already priced into

[22] 74 FR 3317 (January 16, 2009).

[23] Based on inflation from January 2010 to September 2020: *https://www.bls.gov/data/inflation_calculator.htm.*

ongoing contractual payment arrangements between health plans and PBMs and would not be increased specifically in response to the Version F6 conversion.

All PBMs would experience some impacts from the Version F6 conversion, involving IT systems planning and analysis, development, and external testing with switches and trading partners. One PBM commented to the NCVHS that the most significant impact would be the expansion of the financial fields to accommodate very expensive drug products with charges greater than $999,999.99. Another PBM processor representative indicated in a conversation that the impact on payer/processors would depend on the lines of business they support—that entities supporting Medicare Part D processing would have the most work to do, but would also get the most value from the transition. The extent to which these activities would be handled by in-house resources or contracted out may vary by organization. Based on other conversations, we understand that from the PBM perspective, the Version F6 conversion adds fields that increase precision and machine readability; rearranges some things to make processing more efficient and flexible in the long run; implements more efficient ways to accomplish work-arounds that payers already have in place (so the changes in the transactions would map to back-end system fields and logic already in place); and involves relatively few structural changes.

PBMs may manage prescription drug coverage for a variety of lines of business, including commercial health plans, self-insured employer plans, union plans, Medicare Part D plans, the Federal Employees Health Benefits Program, state government employee plans, managed Medicaid plans, and others,[24] such as state Medicaid programs. While details on internal operating systems are proprietary, we assume that the three largest PBMs that controlled 75 percent of 2018 market share [25] (not including the VA) have contractual agreements supporting all or most drug coverage lines of business and host the most variants in legacy operating platforms, customer-specific processing requirements, and scope of customer service requirements—involving all the information exchange types supported by the NCPDP Telecommunications Standard. We assume that the remaining three of the top six PBMs, responsible for another 20 percent of market share, have lesser operating system complexity but also provide services for multiple lines of business and a full scope of information exchange types. We assume that the VA PBM is comparable to these midsize PBMs. We assume that the remainder of the PBM market is comprised of approximately 33 (40 − 7) smaller PBMs supporting one or more lines of business and information exchange types.

Public commenters to the 2009 Modifications proposed rule regarding the D.0 conversion, self-identifying as large PBMs, estimated that costs for their upgrades would be more than $10 million and $11 million, respectively. As a result of these comments, we revised our estimates up to $10.5 million for each large PBM company and maintained the original assumption of $100,000 in conversion costs for smaller specialty PBMs,[26] as we received no comments critical of that estimate. Based on updated data on market share, we now assume more segments in the PBM industry to account for the consolidation and growth of midsize entities that comprise the second tier of market share and assume their costs to be less than half those of the largest PBMs due to lesser complexity of structure and operations. Therefore, using the Version D.0 revised estimates as anchors, we estimate the following:

- The largest three PBMs incurred baseline (Version D.0) conversion costs of $10.5 million.
- The 3 next-largest PBMs and the VA PBM incurred baseline conversion costs of $4 million.
- The remaining 33 PBMs incurred baseline costs of $500,000.

As previously noted, industry estimates of the costs of a conversion from Version D.0 to Version F6 have been expressed as multiples of two to four times the costs for the Version 5.1 to Version D.0 conversion. However, several PBM commenters to the NCVHS suggested the lower end of this range. This would be consistent with our understanding that many of the changes involve mapping current back-end work-around systems to newly codified data, as opposed to building substantial new functionality from scratch. However, expansion of all existing financial fields to accommodate larger numbers would involve changes to many interrelated systems. As summarized in Table 4, using a 2x multiplier, we estimate that over the 2-year implementation period:

- The largest 3 PBMs would incur Version F6 conversion costs of (2*10.5 mil), or $21 million each.
- The next 3 midsize PBMs and the VA PBM or four firms, would incur Version F6 conversion costs of (2*4 mil), or $8 million each.
- The remaining 33 PBMs would incur Version F6 conversion costs of (2*500,000), or $1 million each.

TABLE 4. PBM COSTS OF CONVERSION TO VERSION F6

Version F6 Conversion Cost Category by PBM Size	D.0 Cost Baseline ($ in millions)	Inflation Adjustment to Baseline	Adjusted D.0 Baseline ($ in millions)	D.0 Cost Multiplier for Version F6	Conversion Cost Per Entity ($ in millions)	Number of Affected Entities	Total F6 Conversion Costs ($ in millions)
All (largest)	10.5	N/A	10.5	2	21	3	63
All (midsize)	4.0	N/A	4.0	2	8	4	32
All (smaller)	0.5	N/A	0.5	2	1	33	33
Totals						40	128

[24] Pharmacy Benefit Managers (PBMs): Generating Savings for Plan Sponsors and Consumers. Prepared for the Pharmaceutical Care Management Association (PCMA). February 2020. *https://www.pcmanet.org/wp-content/uploads/2020/02/Pharmacy-Benefit-Managers-Generating-Savings-for-Plan-Sponsors-and-Consumers-2020-1.pdf.*

[25] CVS, Express Scripts, and the Evolution of the PBM Business Model. Drug Channels. May 29, 2019. *https://www.drugchannels.net/2019/05/cvs-express-scripts-and-evolution-of.html.*

[26] 74 FR 3320 (January 16, 2009).

(4) Vendors

As previously discussed, pharmacies that do not internally develop and maintain their pharmacy management systems contract with technology vendors for these services. We believe there are approximately 30 technology firms providing computer system design, hosting, and maintenance services in this market, with different companies serving one or more market segments, such as retail, mail, long-term care, or specialty pharmacy. Software vendors often have commitments to their clients to maintain compliance with the latest adopted pharmacy transaction standards. They must incorporate these standards into their software systems; otherwise, they would not be able to sell their products competitively in the marketplace. These systems cannot properly support their users using outdated standards or missing key functionalities which the industry has identified as essential to business operations. We understand that vendors anticipate upgrades to these standards, and the cost of updating the software is incorporated into the vendor's routine cost of doing business and product support pricing. As discussed in the context of independent pharmacies, based on conversations with a variety of industry representatives, we understand that future HIPAA standard conversion efforts are often already priced into existing maintenance agreements and fee structures for their customers. However, the marginal costs of the conversion would be borne by these vendor entities.

We understand from conversations with industry representatives that system update costs are usually embedded into operating costs, where they represent opportunity costs for vendors that offset the resources to add new features (system enhancements) that their clients may request. Updating systems would take some, but not all, resources currently doing system enhancements and improvements and move them over to ensuring compliance with the new standards. In the 2009 Modifications final rule,[27] we explained that we received no comments from pharmacy software vendors in response to the solicitation of comments on expected Version D.0 conversion costs, actual costs for vendor software upgrades, and any downstream impact on covered entities. We believe it is likely that firms would continue to decline to share this type of proprietary and market-sensitive data. Thus, we do not have comparable anchors from prior impact analyses for cost estimates. However, in the public comments submitted to the NCVHS, one pharmacy software vendor with multiple product lines provided a preliminary estimate of approximately 50,000 man-hours to make the Version F6 changes. We are not aware of publicly available data segmenting this industry, so we assume this one estimate is representative of the industry on average. Using this estimate and a mean hourly wage rate of $54 from BLS data [28] and rounding to the nearest million, we estimate that over the 2-year implementation period: 30 pharmacy management system firms would incur Version F6 conversion costs of approximately $3 million each for software planning, development, and testing.

We further estimate that these pharmacy system vendor firms would incur 80 hours of training costs for each pharmacy client firm at a mean hourly wage rate of $28.51 (also from the BLS data), the product rounded to $2,300. Thus, we estimate that in the third year of the 2-year implementation period: 30 pharmacy management system firms would incur Version F6 training costs of $2,300 for 2,265 clients (237 small chain pharmacy and 2,028 independent pharmacy firms), or $5,210,000 in total for this industry segment.

In addition, both pharmacies and PBMs contract with telecommunication switches for transaction validation and routing. Based on conversations with industry representatives, we believe there are three switches in this segment of the market. We are not aware of any data to help us estimate their costs of system upgrades, but believe their costs are less than those of chain pharmacies and PBMs. We estimate that over the 2-year implementation period three telecommunication switching vendors would incur Version F6 conversion costs of $1.5 million each. These other vendor costs are summarized in Table 5.

TABLE 5. OTHER VENDOR COSTS OF CONVERSION TO VERSION F6

Version F6 Conversion Cost Category	Conversion Cost Per Entity ($ in millions)	Number of Affected Entities or Sites	Total F6 Conversion Costs ($ in millions)
Pharmacy Management System IT Implementation	3.0	30	90.0
Pharmacy Management System User Training	0.0023	2265	5.2
Subtotal			95.2
Telecommunication Switches	1.5	3	4.5
Total			99.7

In summary, total estimated Version F6 conversion costs are summarized in Table 6.

[27] 74 FR 3320 (January 16, 2009).

[28] Bureau of Labor Statistics. May 2019 National Occupational Employment and Wage Estimates United States. Mean hourly rates for Computer Network Architects, Software Developers and Software Quality Assurance Analysts and Testers, and Computer Support Specialists. *https://www.bls.gov/oes/current/oes_nat.htm#15-0000.*

TABLE 6. TOTAL INDUSTRY COSTS FOR CONVERSION TO VERSION F6

Conversion Cost Category	Number of Affected Entity (firms)	Total F6 Conversion Costs ($ in millions)
Chain Pharmacies	315	95.6
Independent Pharmacies	19,044	61.0
Health Plans	772	---
PBMs	40	128.0
Pharmacy Management System Vendors	30	95.2
Telecommunication Switches	3	4.5
Total		384.3

c. Benefits

Industry commentary on benefits related to the Version F6 conversion is available in two segments: first, the 2018 NCVHS testimony and industry representative interviews related to the proposed intermediate Version D.0 to Version F2 conversion, and second, the 2020 NCVHS testimony and public comments related to the revised Version F6 proposal. Both sets of evidence portray industry consensus that updating the HIPAA pharmacy standards is necessary for current and future business needs at a significant, but unavoidable, cost. Commentaries describe numerous non-quantifiable benefits, such as to enable compliance with regulatory requirements, to facilitate the transmittal of additional codified and interoperable information between stakeholders that would benefit patient care and care coordination, and to power advanced data analytics and transparency. Some changes would result in operational efficiencies over manual processes, but would also entail greater manual effort to collect information and input data at an offsetting cost. We are not aware of any assertions or estimates of industry cost savings attributable to the Version F6 conversion, and we solicit comment on whether there are significant savings that should be accounted for in our analysis. For pharmacy management system vendors and switches, we assume upgrading existing systems for the Version F6 conversion is a cost of doing business and retaining customers and does not involve cost savings.

(1) Pharmacies

Initial automation of pharmacy coordination of benefits transactions was a large part of the previous Version 5.1 to D.0 conversion. Further refinement of this type of information is included in the Version F6 conversion. Additional fields are expected to improve the flow of information between pharmacies and payers and allow for more accurate billing to the correct entity. However, better information does not translate into savings as directly as the initial transition from manual to fully electronic processes. Moreover, commenters to the 2009 Modifications proposed rule suggested that even those minor levels of savings (1.1 percent of pharmacist time) may have been overestimated.[29] Some of the less quantifiable benefits include enabling more integration with back-office systems, more informative data analytics, better forecasting, and stronger internal controls over both proper payments and compliance with contractual requirements. For instance, better information on adjudicated payer types allows pharmacies to identify and apply insurance program-specific coverage requirements more accurately.

Other changes, such as more structured communication between pharmacies and payers to resolve prescriber-identifier validation activities at the point of sale, or to better enable compliance with federal and state limitations on filling and refilling controlled substance prescriptions, would enable better compliance with Drug Enforcement Administration and CMS rules without PBMs having to resort to claim rejections. In general, many of these changes are expected to support pharmacy efficiency improvements, reduce some manual workflow processes related to Food and Drug Administration mandated Risk Evaluation and Mitigation Strategy (REMS) data collection and use, reduce the time required to resolve claim rejections and transaction attempts, and reduce recoupment risk on audits.[30] However, these efficiencies may not necessarily translate directly to cost savings for pharmacies, as other changes require more data collection, greater pharmacy staff communication with prescribers, and inputting more coding than required previously. We are not aware of any estimates of quantifiable savings related to these efficiencies. Improvements like the expanded financial fields would avoid future manual processes needed to enter free text, split claims, or prepare and submit a paper Universal Claim Form; however, million-dollar claims are quite rare today, and, thus, it seems this change may not represent significant cost savings over current processes. But, as noted earlier, their numbers are expected to increase, and, without this functionality, the risk of billing errors could potentially increase. Moreover, these types of drugs would likely be dispensed by a small percentage of pharmacies, so the benefits would likely not be generally applicable to all pharmacies.

Pharmacy and pharmacy vendor commenters to the NCVHS noted that other types of changes would benefit patients by enhancing pharmacy and payer patient care workflows through the replacement of many clinical free text fields with discrete codified fields. This would enable automation that can trigger real-time workflows that could aid in goals such as combatting the opioid crisis or communicating relevant therapy-related information for at-risk patients. Improvements would support better patient care and safety through more accurate patient identification and enhanced availability and routing of benefit and drug utilization review information. For instance, new response fields for drug utilization review messaging and Formulary Benefit Detail help to convey clinical information such as disease, medical condition, and formulary information on covered drugs. This would enable the pharmacist to have more informative discussions with patients and provide valuable information about alternative drug or therapy solutions. We assume that some of this data exchange would eliminate manual processes and

[29] 74 FR 3320 (January 16, 2009).

[30] S. Gruttadauria. (March 26, 2018). ''NCPDP Telecommunications Standard vF2 Written Testimony.'' Available: *https://ncvhs.hhs.gov/wp-content/uploads/2018/05/Session-A-Gruttadauria-Written.pdf.*

interruptions, and would also enable additional required pharmacist interventions to be added contractually which could not occur previously. Thus, we conclude that the changes available through the Version F6 conversion would allow pharmacies to improve the accuracy and quality of services they provide but may not generate significant cost savings from a budgeting perspective.

(2) Health Plans and PBMs

The benefits that could accrue to health plans and PBMs mirror the improvements that could accrue to pharmacy efficiencies discussed previously. Better information flows and interoperability could enable more efficient benefit adjudication, enhanced communications with trading partners and patients, and better data. Better data could improve payment accuracy, regulatory compliance, and advanced analytics for forecasting, coordination of care, and patient safety. For instance, better information on adjudicated payer types could support more accurately identifying other payers involved in the transaction. Improved information on other payers could result in cost avoidance by avoiding duplication of payment and/or by preventing Medicare from paying primary when it is the secondary payer. However, improved patient and alternative payer identification could also increase the transparency of the identification of payers secondary to Medicare and increase costs from other payers' subrogation in some circumstances. The ability to automate the processing of very expensive drug claims would avoid more cumbersome processes, but the absolute volume of such claims may not be enough to generate significant savings. We are not aware of any studies or estimates of cost savings for health plans or PBMs attributable to the Version F6 conversion, nor are we aware of public comments describing any such cost savings. Furthermore, in testimony to the NCVHS, the NCPDP noted the importance of Version F6 for achieving broader (but difficult-to-quantify) healthcare transformation goals: it improves the structure to support the clinical evaluation of prescription products and planned benefit transparency, which are key components for achieving expected healthcare outcomes related to value-based care, digital therapeutics, social determinants of health, and other areas of health innovation.[31] Thus, we conclude that while the benefits of adopting Version F6 are necessary for meeting current and future business needs and policy goals, we are unable to monetize these benefits in the form of cost savings. We solicit comments on whether there are significant quantifiable benefits or cost savings that should be included in our analysis.

2. Adoption of Version 10

a. Introduction

Subrogation occurs when one payer has paid a claim that is subsequently determined to be the responsibility of another payer, and the first payer seeks to recover the overpayment directly from the proper payer. Such erroneous payments may occur as the result of retroactive changes in patient coverage or because of the lack of information on other payers or correct payer order at the point of sale. Subrogation avoids putting the pharmacy in the middle of the corrective action by avoiding the alternative burdensome process of the first payer recovering the overpayment from the pharmacy and, thus, forcing the pharmacy to attempt reversing the claim and rebilling the proper payer.

The current HIPAA subrogation transaction standard addresses federal and state requirements for state Medicaid agencies to recover reimbursement from responsible health plans but does not address similar requirements for other payers, such as Medicare Part D, State Pharmaceutical Assistance Programs (SPAPs), state AIDS Drug Assistance Programs (ADAPs), or other private insurers. Replacing this standard with initial adoption of Version 10 would extend the standard to all third-party payers. Insurers, employers, and managed care entities are generally referred to as health and/or drug plan sponsors, or, more generally, as third-party payers. Their health plans generally provide some coverage for outpatient prescription drugs, but do not generally directly manage coordination of pharmacy benefits and subrogation (also known as third-party liability services). Instead, health plans and other third-party payers generally contract with PBMs or with specialized payment integrity/financial recovery vendors for these services. The subrogation technical standard is based on the batch telecommunications standard and may utilize any field in an approved standard.

b. Affected Entities

Medicare Part D requires real-time coordination of benefits, and we understand that these processes, as well as responsibility for managing subrogation (primarily for Medicaid retroactivity), are generally contracted through PBMs. Other payers, such as state Medicaid agencies and commercial insurers, are more likely to contract with payment integrity/financial recovery vendors. As of March 2018, there was evidence that some states managed this activity directly,[32] but we are not aware of publicly available information on whether this is, or would still be, the case for the Version 10 implementation timeframe. Likewise, we understand the VA PBM does not coordinate benefits in real time but contracts with a payment integrity/financial recovery firm for retrospective subrogation in some circumstances. We believe there are four firms in the specialized pharmacy benefit payment integrity/financial recovery industry, with the majority of business volume concentrated in one firm.

Based on a CAMH environmental scan conducted with industry representatives, we understand that the demand for subrogation today differs by third-party line of business. Third-party payers for governmental programs (Medicaid, Medicare Part D, and SPAPs/ADAPs) drive most of the subrogation demand. This is in large part due to their retroactive eligibility rules and potential overlaps in enrollment. Third-party commercial payer contracts are less likely to have a comparable retroactivity-of-coverage issue and, due to the rising cost of health insurance, are increasingly less likely to have enrollees covered under more than one insurance program or policy. For these reasons, we understand that third-party commercial payers are more likely to subrogate with workers' compensation, auto insurance, or other non-healthcare insurance-related parties, rather than with other healthcare payers.

While pharmacies are not users of the subrogation standard, they are potentially affected by any further expansion of the standard from Medicaid to all third-party payers. This is because one alternative to subrogation involves the payer that paid in error recouping funds from pharmacies and transferring the effort and risk of rebilling the appropriate payer to the pharmacy.

[31] National Committee on Vital and Health Statistics Transcript March 24, 2020, 10:00 a.m.—5:30 p.m. ET. *https://ncvhs.hhs.gov/wp-content/uploads/2020/05/Transcript-Full-Committee-Meeting-March-24-2020.pdf.*

[32] NCVHS Hearing on NCPDP Standards and Updates—March 26, 2018 Virtual Meeting. *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-march-26-2018-hearing-on-ncpdp-standards-and-updates/.*

c. Costs

(1) Third-Party Payers (Includes Plan Sponsors and PBMs)

The bulk of the work to implement Version 10 for many third-party payers has been previously addressed in costs associated with implementing Version F6, specifically its equivalent batch standard. Based on conversations with industry representatives familiar with the subrogation standards, we understand that the changes in Version 10 have been undertaken to preserve the integrity of the standard for Medicaid purposes while allowing for the collection of a limited number of new data elements to assist with other payer subrogation, particularly for Part D payers. We understand that the changes between Version 3.0 and Version 10 are not extensive, so we believe this change would not have significant effects on state Medicaid agencies or their vendors. However, we are not aware of data or public comments to help us confirm this assumption.

We also assume that payers that desire to pursue prescription drug claim subrogation have already contracted with PBMs or other contractors that have implemented the Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, or some variation on this standard, on a voluntary basis. However, testimony provided in the March 2018 NCVHS hearing indicated that some payers had not yet implemented the batch processing software, and would have additional IT system, administrative, and training costs to convert to Version 10. We are not aware of the specific payers to which this remark referred, and, thus, several years later, we have no basis on which to estimate the number of additional payers or state Medicaid agencies that could potentially adopt the standard for the first time with Version 10. Nor do we know if any such payers might instead contract with a vendor to manage this function on their behalf during the course of the Version 10 implementation. As with PBM and vendor contractual arrangements discussed previously, we assume that HIPAA standard conversions have been priced into ongoing contractual payment arrangements and would not increase costs to third-party payers as the result of converting to Version 10. We solicit comments to help us understand the impacts of converting to Version 10 on any payers or state Medicaid agencies that have not previously implemented NCPDP batch standards and/or Subrogation Version 3.0. We also solicit comments on our assumptions on the impacts on state Medicaid agency vendors in general, as well as data with which to quantify any additional impacts beyond the Version F6 conversion estimates provided previously.

Based on conversations with industry representatives, we further understand that payers already engaged in subrogation, particularly Part D PBMs, have already, albeit inconsistently, implemented Version 3.0 for other payers. Version 10 provides more requirements for use of the standard and how to populate the fields to increase standardization. Thus, we assume that the incremental effort required to transition to Version 10 largely consists of a mapping exercise from current PBM or vendor operating systems, rather than an initial build and migration from manual to automated processes. We are not aware of any studies or public comments to help us quantify these incremental costs.

(2) Vendors

As noted previously, state Medicaid agencies, commercial third-party payers, and the VA generally contract with four payment integrity/financial recovery firms for subrogation. We believe, based on conversations with industry representatives, that these firms generally utilize Subrogation Version 3.0 today, and would have to invest in Version F6 batch standard upgrades to implement Version 10 and prepare to potentially accept subrogation from other third-party payers. These firms were not included in the previous vendor estimates. We are not aware of studies or public comments that describe costs related to their activities and requirements. We assume these vendors would incur a minority of the costs associated with the Version F6 conversion and some internal data remapping expense. Therefore, as summarized in Table 7, we estimate that that over the 2-year implementation period:

Four payment integrity/financial recovery vendors would incur Version F6, equivalent Batch Standard, Version 15 and other Version 10 conversion costs of $500,000 each.

TABLE 7. OTHER VENDOR COSTS OF CONVERSION TO VERSION 10

Conversion Cost Category	Conversion Cost Per Entity ($ millions)	Number of Affected Entities	Total F6 Conversion Costs ($ millions)
Payment Integrity/Financial Recovery Vendors	0.5	4	2.0

d. Benefits

(1) Third-Party Payers

The primary benefits for third-party payers are the opportunity to reduce claims costs when another party is also responsible for the claims and the avoidance of cumbersome manual processes. However, we are not aware of studies or public comments that help us estimate the frequency and size of this benefit. Prescription drug claims tend, on average, to be for much smaller amounts than medical claims, such as those for hospital admissions, and we believe many payers may pursue subrogation only on the more expensive claims. Discussion at the March 2018 NCVHS hearing indicated that about 5 percent of patients had multiple insurances. It is estimated that national drug expenditures, the volume of claim reconciliation, and that the savings opportunity could easily exceed a billion dollars (as the subrogation transaction standard proposal was not revised in 2020, we do not have more recent testimony updating this estimate). However, additional testimony at that same hearing [33] suggested there is not a huge cost savings opportunity left for commercial subrogation, but, instead, an occasional need that would be facilitated by a standardized approach. It seems that we do not have enough information to quantify the incremental benefits of extending Version 10 to non-Medicaid

[33] Transcript-Standards Subcommittee Hearing—NCPDP Standards Updates—March 26, 2018. Accessed 05/14/2021 at: *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-march-26-2018-hearing-on-ncpdp-standards-and-updates/.*

third-party payers. We seek comment on our assumptions.

(2) Pharmacies

As noted previously, while pharmacies are not users of the subrogation transactions standard, they could potentially benefit from further expansion of the standard from state Medicaid agencies to all third-party payers if additional payers that are currently recouping overpayments from pharmacies instead were to transition to a subrogation approach. However, we are not aware of any studies or public comments that would help us estimate the likelihood or size of a potential change of this nature. We solicit comments to help us understand the extent to which the adoption of Version 10 may have an effect on pharmacies.

E. Alternatives Considered

We considered a number of alternatives to adopting Version F6 and Version 10, but chose to proceed with the proposals in this in this rule after identifying significant shortcomings with each of the alternatives.

One alternative we considered was to not propose to adopt Version F6 and continue to require the use of Version D.0. We also considered waiting to adopt Version F6 at a later date since we recently published a final rule in 2020 modifying the requirements for the use of Version D.0 by requiring covered entities to use the 460–ET field for retail pharmacy transactions denoting partial fill of Schedule II drugs. We did not proceed with either alternative because we believe that, were we to do so, the industry would continue to use a number of work arounds that increase burden and are contrary to standardization. We also believe that the number of these work arounds, as well as use of the work arounds, would continue to increase if we were not to propose adoption of Version F6 at this time. For example, NCPDP has advised that several new drugs priced at, or in excess of, $1 million are already on the market, and researchers and analysts anticipate that over the next several years, dozens of new drugs and therapies priced similarly or higher may enter the market. As the number of drugs and therapies in the market priced at, or in excess of, $1 million increases, the total burden associated with manual work arounds would also increase.

We invite public comments on these assumptions and request any additional data that would help us to more accurately quantify the time and resource burdens associated with the existing, and, potentially, future work arounds should Version F6 not be adopted. We also chose not to proceed with these alternatives because, as discussed in section III.A. of this proposed rule, we believe adoption of Version F6 would support interoperability and improve patient outcomes.

We considered proposing a compliance date longer than 24 months for covered entities to comply with Version F6. However, as discussed in section III.C. of this proposed rule, we chose to propose a 24-month compliance date because we believe the benefits to be derived from implementing Version F6 as soon as possible are significant. We also considered proposing staggered implementation dates for Version F6, whereby covered entities using the retail pharmacy transactions would have different compliance dates. We believe this alternative would not support standardization since pharmacies, PBMs, and health plans all rely on the information transmitted in the retail pharmacy transactions, and if any one of these three entities would not be using the same standard version at the same time, the information needed to process claims and check eligibility would be deficient. Pharmacies need the most current eligibility data from the plans to determine correct coverage and payment information, and health plans and PBMs need the most current information to be reflected in the claims data to maintain the beneficiaries' most current benefits.

Concerning the proposed adoption of Version 10, we considered not adopting that updated version and continuing to require the use of Version 3.0. Such alternative would continue to permit non-Medicaid health plans that engage in pharmacy subrogation transactions to continue using the proprietary electronic and paper formats currently in use. We chose not to proceed with this alternative because we believe it is important to adopt standards that move the industry toward uniformity among all payers.

F. Regulatory Review Cost Estimate

One of the costs of compliance with a final rule is the necessity for affected entities to review the rule in order to understand what it requires and what changes the entity will have to make to come into compliance. We assume that 104 affected entities will incur these costs, as they are the entities that will have to implement the proposed changes, that is, those entities that are pharmacy organizations that manage their own systems (27), pharmacy management system vendors (30), PBMs (40), telecommunication switch vendors (3), and payment integrity/financial recovery vendors (4). The particular staff involved in such a review will vary from entity to entity, but will generally consist of lawyers responsible for compliance activities and individuals familiar with the NCPDP standards at the level of a computer and information systems manager. Using the Occupational Employment and Wages for May 2020 from the BLS for lawyers (Code 23–1011) and computer and information system managers (Code 11–3021),[34] we estimate that the national average labor costs of reviewing this rule are $95.56 and $113.12 per hour, respectively, including other indirect costs and fringe benefits. We estimate that it will take approximately 4 hours for each staff person involved to review this final rule and its relevant sections and that on average two lawyers and two computer and information manager-level staff persons will engage in this review. For each entity that reviews the rule, the estimated costs are therefore $1,669.44 (4 hours each × 2 staff × $95.56 plus 4 hours × 2 staff × $113.12). Therefore, we estimate that the total cost of reviewing this rule is $171,953 ($1,669.44 × 103 affected entities).

G. Accounting Statement and Tables

As required by OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*), in Table 8 we present an accounting statement showing the classification of the annualized costs associated with the provisions of this final rule. Whenever a rule is considered a significant rule under Executive Order 12866, we are required to develop an Accounting Statement. This statement must state that we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed rule. Monetary annualized benefits and non-budgetary costs are presented as discounted flows using 3 percent and 7 percent factors.

[34] Bureau of Labor Statistics. May 2020 National Occupational Employment and Wage Estimates United States. Mean hourly rates for Computer Network Architects, Software Developers and Software Quality Assurance Analysts and Testers, and Computer Support Specialists. Accessed 5/14/2021 at: *https://www.bls.gov/oes/current/oes113021.htm#top.*

TABLE 8. ACCOUNTING STATEMENT

(Accounting Statement: Classification of Estimate Costs and Benefits from FY 2023 to FY 2032 ($ in millions)

Category	Primary Estimate	Minimum Estimate	Maximum Estimate	Source
Benefits				
Annualized monetized benefits:				
7% Discount	n/a			
3% Discount	n/a	n/a	n/a	RIA
		n/a	n/a	RIA
Qualitative (un-quantified benefits	Wider adoption of standards; increased productivity due to decrease in manual processing; reduced delays in patient care.			
Benefits will entail enhanced abilities for health plans, other third-party payers, and pharmacies to achieve regulatory compliance and other business needs, such as greater potential for operational efficiencies through transmission of codified data, improved access to information that may improve patient care, more detailed information for coordination of benefits, and other non-quantified benefits that exceed the costs.				
Costs				
Annualized monetized costs:				
7% Discount	60			
3% Discount	50	40	70	RIA
		30	60	RIA
Qualitative (un-quantified costs	None			
Opportunity costs will be borne by the entities that will have to implement the proposed changes, that is, those entities that are pharmacy organizations that manage their own systems, pharmacy management system vendors, PBMs, telecommunication switch vendors, and payment integrity/financial recovery vendors. Some marginal user training costs will be borne by other pharmacies.				
Transfers				
Annualized monetized transfers: "on budget".	None	None	None	
Annualized monetized transfers: "off budget".	None	None	None	

H. Regulatory Flexibility Analysis (RFA)

The RFA requires agencies to prepare an initial regulatory flexibility analysis that describes the impact of a proposed change on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. The RFA generally defines a small entity as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a not-for-profit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of a small entity. For the purpose of the proposed rule, we estimate that a change in revenues of more than 3 to 5 percent would constitute the measure of significant economic impact on a substantial number of small entities.

SBA size standards have been established for types of economic activity or industry, generally under the North American Industry Classification System (NAICS). Using the 2019 SBA small business size regulations and Small Business Size Standards by NAICS Industry tables at 13 CFR 121.201, we have determined that the covered entities and their vendors affected by this proposed rule fall primarily in the following industry standards:

TABLE 9. SBA SIZE STANDARDS FOR APPLICABLE NAICS INDUSTRY CODES

NAICS Code	NAICS U.S. Industry Title	SBA Size Standard ($ mil)
446110	Pharmacies and Drug Stores	30.0
524114	Direct Health and Medical Insurance Carriers (Health Plans)	41.5
621491	HMO Medical Centers (Health Plans)	35.0
524292	Third Party Administration of Insurance and Pension Funds (PBMs)	35.0
541512	Computer Systems Design Services (Pharmacy Management System Vendors)	30.0
518210	Data Processing, Hosting, and Related Services (Telecommunication Switches)	35.0
524298	All Other Insurance Related Activities (Payment Integrity/Financial Recovery)	16.5

This change in retail pharmacy transaction standards would apply to many small covered entities in the Pharmacy and Drug Store segment (NAICS code 446110). However, based on information obtained by CAMH during its conversations with industry experts, we understand that small pharmacies generally rely on ongoing arrangements with certain specialized computer system design services vendors (a subset of NAICS code 541512) to integrate the standards into their pharmacy management software and systems as a routine cost of doing business. Therefore, these covered entities may not bear the bulk of the costs attributable to the proposed changes. Instead, as detailed later in this RIA, generally, the costs applicable to small pharmacies are expected to be a portion of the costs for user training for some firms. The pharmacy management system vendors are not covered entities, and we are not aware of publicly available data to comprehensively identify these entities and, where applicable, parent firm size. Other types of covered entities providing pharmacy services, such as the subset of grocery stores with pharmacies, cannot be clearly identified within NAICS data, as such data are not collected in this detail, but are included in our estimates for larger entities. Conversely, institutions with outpatient pharmacies (for example, hospitals) also cannot be clearly identified by NAICS data but are not included in our analysis, since we believe such institutions are generally part of larger organizations that do not meet the SBA definition. One exception to this assumption are the IHS urban and tribal facilities with pharmacies that bill prescription drug plans, which we address later in this analysis.

For purposes of this RIA, the definition of an entity most closely resembles the federal statistical agencies' concept of a firm.[35] A firm consists of one or more establishments under common ownership. An establishment consists of a single physical location or permanent structure.[36] Thus, a chain drug store or chain grocery store constitutes a single firm operating multiple establishments. Using the 2017 Census Bureau Annual Business Survey estimates of firms, sales, and receipts by NAICS sector (available at *https://www.census.gov/programs-surveys/abs.html,* and hereafter referred to as Census business data), we have attempted to estimate the number of small pharmacy entity firms and provide a general discussion of the effects of the proposed regulation. We solicit industry comment on these assumptions.

1. Initial Regulatory Flexibility Analysis (IRFA)

a. Number of Small Entities

Based on Census business data records indicating that in 2017 there were a total of 19,234 total pharmacy firms, we estimate that just over 19,000 pharmacy firms qualify as small entities, though communications with industry representatives suggest that figure may overestimate the current industry small entity landscape. Available data does not permit us to clearly distinguish small pharmacy firms from firms that are part of larger parent organizations, but we use employee size as a proxy for the firm size subject to the SBA size standard. For purposes of this analysis, we assume the firms with more than 500 employees (190) represent chain pharmacies and those with fewer than 500 (19,044) employees represent independently owned open- or closed-door pharmacies. The 19,044 firms with fewer than 500 employees represented 20,901 establishments and accounted for total annual receipts of $70.9 billion and average annual receipts of $3.7 million—well below the SBA standard of $30 million. By contrast, the 190 firms with 500 or more employees represented 27,123 establishments and accounted for over $211 billion in annual receipts, and thus, average annual receipts of $1.1 billion. Therefore, we assume 19,044 pharmacy firms qualify as small entities for this analysis.

For 2017, the Census Bureau counts 745 entities designated as Direct Health and Medical Insurance Carriers and 27 as Health Maintenance Organization (HMO) Medical Centers. We assume that these 772 firms represent health plans that sponsor prescription drug benefits. Of the 745 Carriers, those with fewer than 500 employees (564) accounted for $35 billion in total and over $62 million in average annual receipts, exceeding the SBA size standard of $41.5 million. Comparable data on the eight smaller HMO Medical Centers is not available due to small cell size suppression. Although health plan firms may not qualify as small entities under the SBA receipts size standard, they may under non-profit status. However, we are not aware of data that would help us understand the relationship between health plan firm and ownership tax status to quantify the number of such firms. In any case, as explained in more detail later in this RIA, we do not estimate that health plans would generally bear costs associated with the changes in this proposed rule, as their contracted transaction processing vendors (generally PBMs) would be responsible for implementing the changes, and, generally, based on conversations with the industry we do not believe their contractual terms would change as the result. Therefore, although we cannot estimate the number of health plan firms that may meet the small entity definition using non-profit status, generally we do not believe such entities would bear costs attributable to the proposed changes.

In addition to the covered entities, we estimate 30 pharmacy management system vendors, 40 PBM vendors, three telecommunications switching vendors, and four payment integrity/financial recovery firms would be affected by the proposed changes to their clients. We

[35] *www.bls.gov/opub/mlr/2016/article/establishment-firm-or-enterprise.htm.*

[36] *www.census.gov/programs-surveys/susb/technical-documentation/methodology.html.*

are not aware of comprehensive publicly available data detailed enough to quantify the size of these remaining entities, but we believe that the affected firms are, generally, part of larger organizations. We solicit comments with respect to our assumptions.

b. Cost to Small Entities

To determine the impact on small pharmacies, we used Census business data on the number of firms with fewer than 500 employees and user training cost estimates developed using public comments on prior rulemaking and updated for inflation. As discussed earlier in this RIA, we assume that the clear majority of pharmacy firms are small entities that rely on their contracted pharmacy management system vendors to absorb HIPAA standard version conversion costs in return for ongoing maintenance and transaction fees. We assume that pharmacy firms would have direct costs related to Version F6 user training that would vary in relation to employee size; that the vast majority (90 percent) of small pharmacy firms with fewer than 20 employees would receive all necessary user training from vendors; and that the remaining 10 percent of small pharmacy firms (2,028) with 20 or more employees would have additional staff user training expense totaling $30,000 on average in the second year of the implementation period. As displayed in Table 10, the resulting total impact of approximately $61 million represents approximately 0.1 percent of small pharmacy annual revenues. Therefore, we conclude that the financial burden would be less than the 3 percent to 5 percent of revenue threshold for significant economic impact on small entities.

TABLE 10. ANALYSIS OF IMPLEMENTATION BURDEN ON SMALL COVERED ENTITIES

NAICS	Entity Type	Number of Small Entities	Revenue ($ in billions)	Implementation Costs ($ in millions)	Cost percentage of revenues
446110	Pharmacies and Drug Stores	19,044	71	61	0.1%

Source for number and revenue: Census Bureau. 2017 Economic Census.

As stated in section V.F. of this proposed rule, we considered various policy alternatives to adopting Version F6. Specific to reducing costs to small entities, we considered staggering the implementation dates for Version F6 among the affected entities that utilize the NCPDP transaction standard. But we chose not to propose this alternative because pharmacies, PBMs, and health plans all rely on the information transmitted though the retail pharmacy transactions, and if any one of these three entities would not be using the same standard version at the same time, the information needed to process claims and check eligibility would be deficient. Pharmacies need the most current eligibility data from the plans to determine correct coverage and payment information. Plans and PBMs would suffer because they would not have the most current information reflected though the claims data to maintain the beneficiaries' most current benefits.

2. Conclusion

As referenced earlier in this section, we use a baseline threshold of 3 percent to 5 percent of revenues to determine if a rule would have a significant economic impact on affected small entities. The small pharmacy entities do not come close to this threshold. Therefore, the Secretary has certified that this proposed will not have a significant economic impact on a substantial number of small entities. Based on the foregoing analysis, we invite public comments on the analysis and request any additional data that would help us determine more accurately the impact on the various categories of entities affected by the proposed rule.

In addition, section 1102(b) of the Act requires us to prepare a RIA if a rule would have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This proposed rule would not affect the operations of a substantial number of small rural hospitals because these entities are not involved in the exchange of retail pharmacy transactions. Therefore, the Secretary has certified that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

I. Unfunded Mandates Reform Act of 1995 (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates would require spending more in any 1 year than threshold amounts in 1995 dollars, updated annually for inflation. In 2022, that threshold is approximately $165 million. This proposed rule does not contain mandates that would impose spending costs on state, local, or tribal governments in the aggregate, or by the private sector, in excess of more than $165 million in any 1 year. In general, each state Medicaid agency and other government entity that is considered a covered entity would be required to ensure that its contracted claim processors and payment integrity/financial recovery contractors update software and conduct testing and training to implement the adoption of the modified versions of the previously adopted standards. However, information obtained by CAMH during its conversations with industry experts supports that the costs for these services would not increase as a result of the proposed changes. Our understanding is that HIPAA standard conversion costs are already priced into ongoing contractual payment arrangements between health plans, contracted claim processors, and payment integrity/financial recovery contractors.

J. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or

otherwise has federalism implications. This proposed rule would not have a substantial direct effect on state or local governments, preempt state law, or otherwise have a federalism implication because, even though state Medicaid agency contractors would be converting to a modified version of an existing standard with which they are already familiar, we believe that any conversion costs, would, generally, be priced into the current level of ongoing contractual payments. State Medicaid agencies, in accordance with this proposed rule, would have to ensure that their contracted claim processors or PBMs successfully convert to Version F6 and that their payment integrity/financial recovery contractors make relatively minor updates to subrogation systems to collect and convey some new fields to conduct subrogation initiated by other payers using Version 10. With respect to subrogation for pharmacy claims, this proposed rule would not add a new business requirement for states, but rather would replace a standard to use for this purpose that would be used consistently by all health plans.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

VI. Response to Comments

Because of the large number of public comments, we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects in 45 CFR Part 162

Administrative practice and procedures, Electronic transactions, Health facilities, Health insurance, Hospitals, Incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 45 CFR part 162 as set forth below:

PART 162—ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 162 continues to read as follows:

Authority: 42 U.S.C. 1320d–1320d–9 and secs. 1104 and 10109 of Public Law 111–148, 124 Stat. 146–154 and 915–917.

■ 2. Section 162.920 is amended by—

■ a. Revising the introductory text of the section and the introductory text of paragraph (b).

■ b. Adding paragraphs (b)(7) through (9).

The revisions and additions read as follows:

§ 162.920 Availability of implementation specifications and operating rules.

Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under *5 U.S.C. 552(a)* and *1 CFR part 51.* To enforce any edition other than that specified in this section, the Centers for Medicare & Medicaid Services (CMS) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at CMS and the National Archives and Records Administration (NARA). Contact CMS at: Centers for Medicare & Medicaid Services (CMS), 7500 Security Boulevard, Baltimore, Maryland 21244; email: *AdministrativeSimplification@cms.hhs.gov.* For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov.* The material may be obtained from the sources in the following paragraphs of this section.

* * * * *

(b) National Council for Prescription Drug Programs (NCPDP), 9240 East Raintree Drive, Scottsdale, AZ 85260; phone: (480) 477–1000; fax: (480) 767–1042; website: *www.ncpdp.org.*

* * * * *

(7) The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020; as referenced in § 162.1102; § 162.1202; § 162.1302; § 162.1802.

(8) The Batch Standard Implementation Guide, Version 15 (Version 15), October 2017; as referenced in § 162.1102; § 162.1202; § 162.1302; § 162.1802.

(9) The Batch Standard Subrogation Implementation Guide, Version 10 (Version 10), September 2019, as referenced in § 162.1902.

* * * * *

■ 3. Section 162.1102 is amended by—

■ a. In paragraph (c), removing the phrase ''For the period on and after the January 1, 2012,'' and adding in its place the phrase ''For the period from January 1, 2012, through [date TBD],''.

■ b. In paragraph (d) introductory text, removing the phrase ''For the period on and after September 21, 2020,'' and adding in its place the phrase ''For the period on and after September 21, 2020, through [date TBD],''.

■ c. Adding paragraph (e).

The addition reads as follows:

§ 162.1102 Standards for health care claims or equivalent encounter information transaction.

* * * * *

(e) For the period on and after [date TBD], the following standards:

(1) *Retail pharmacy drug claims.* The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020 and equivalent Batch Standard Implementation Guide, Version 15 (Version 15) October 2017 (incorporated by reference, see § 162.920).

(2) *Dental health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Dental (837), May 2006, ASC X12N/005010X224, and Type 1 Errata to Health Care Claim: Dental (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X224A1 (incorporated by reference, see § 162.920).

(3) *Professional health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Professional (837), May 2006, ASC X12N/005010X222 (incorporated by reference, see § 162.920).

(4) *Institutional health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Institutional (837), May 2006, ASC X12N/005010X223, and Type 1 Errata to Health Care Claim: Institutional (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X223A1 (incorporated by reference, see § 162.920).

(5) *Retail pharmacy supplies and professional services claims.* (i) The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020 and equivalent Batch Standard Implementation Guide, Version 15 (Version 15) October 2017 (incorporated by reference, see § 162.920).

(ii) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3-Health Care Claim: Professional (837), May 2006, ASC X12N/005010X222 (incorporated by reference, see § 162.920).

■ 4. Section 162.1202 is amended by—

■ a. In paragraph (c), removing the phrase ''For the period on and after January 1, 2012,'' and adding in its place the phrase ''For the period from January 1, 2012, through [date TBD],''.

■ b. Adding paragraph (d).
The addition reads as follows:

§ 162.1202 Standards for eligibility for a health plan transaction.

* * * * *

(d) For the period on and after [date TBD], the following standards:

(1) *Retail pharmacy drugs.* The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020, and equivalent Batch Standard Implementation Guide, Version 15 (Version 15), October 2017 (incorporated by reference, see § 162.920).

(2) *Dental, professional, and institutional health care eligibility benefit inquiry and response.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Eligibility Benefit Inquiry and Response (270/271), April 2008, ASC X12N/005010X279 (incorporated by reference, see § 162.920).

■ 5. Section 162.1302 is amended by—

■ a. In paragraph (c), removing the phrase ''For the period on and after January 1, 2012,'' and adding in its place the phrase ''For the period from January 1, 2012, through [date TBD],''.

■ b. In paragraph (d) introductory text, removing the phrase ''For the period on and after September 21, 2020,'' and adding in its place the phrase, ''For the period on and after September 21, 2020, through [date TBD],''.

■ c. Adding paragraph (e).
The addition reads as follows:

§ 162.1302 Standards for referral certification and authorization transaction.

* * * * *

(e) For the period on and after [date TBD], the following standards:

(1) *Retail pharmacy drugs.* The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020, and equivalent Batch Standard Implementation Guide, Version 15 (Version 15), October 2017 (incorporated by reference, see § 162.920).

(2) *Dental, professional, and institutional request for review and response.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Services Review—Request for Review and Response (278), May 2006, ASC X12N/005010X217, and Errata to Health Care Services Review—Request for Review and Response (278), ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, April 2008, ASC X12N/005010X217E1 (incorporated by reference, see § 162.920).

■ 6. Section 162.1802 is amended by—

■ a. In paragraph (c), removing the phrase ''For the period on and after January 1, 2012,'' and adding in its place the phrase ''For the period from January 1, 2012, through [date TBD],''.

■ b. In paragraph (d) introductory text, removing the phrase ''For the period on and after September 21, 2020,'' and adding in its place the phrase ''For the period on and after September 21, 2020, through [date TBD],''.

■ c. Adding paragraph (e).
The addition reads as follows:

§ 162.1802 Standards for coordination of benefits information transaction.

* * * * *

(e) For the period on and after [date TBD], the following standards:

(1) *Retail pharmacy drug claims.* The Telecommunication Standard Implementation Guide Version F6 (Version F6), January 2020 and equivalent Batch Standard Implementation Guide, Version 15 (Version 15) October 2017 (incorporated by reference, see § 162.920).

(2) *Dental health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Dental (837), May 2006, ASC X12N/005010X224, and Type 1 Errata to Health Care Claim: Dental (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X224A1 (incorporated by reference, see § 162.920).

(3) *Professional health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Professional (837), May 2006, ASC X12N/005010X222 (incorporated by reference, see § 162.920).

(4) *Institutional health care claims.* The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Institutional (837), May 2006, ASC X12N/005010X223, and Type 1 Errata to Health Care Claim: Institutional (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X223A1 (incorporated by reference, see § 162.920).

■ 7. Revise the heading of subpart S to read as follows:

Subpart S—Pharmacy Subrogation

■ 8. Section 162.1901 is amended by—

■ a. Revising the section heading.

■ b. Designating the text of the section as paragraph (a) and adding paragraph (b).

The revision and addition read as follows:

§ 162.1901 Pharmacy subrogation transaction.

* * * * *

(b) The pharmacy subrogation transaction is the transmission of a request for reimbursement of a pharmacy claim from a health plan that paid the claim, for which it did not have payment responsibility, to the health plan responsible for the claim.

■ 9. Section 162.1902 is revised to read as follows:

§ 162.1902 Standards for pharmacy subrogation transaction.

(a) The Secretary adopts the following standards for the Medicaid pharmacy subrogation transaction, described in § 162.1901(a), for the period from January 1, 2012, through [date TBD], The Batch Standard Medicaid Subrogation Implementation Guide, Version 3, Release 0 (Version 3.0), July 2007, as referenced in § 162.1902 (incorporated by reference, see § 162.920).

(b) The Secretary adopts the following standard for the pharmacy subrogation transaction, described in § 162.1901(b), The Batch Standard Subrogation Implementation Guide, Version 10 (Version 10), September 2019, as referenced in § 162.1902 (incorporated by reference, see § 162.920).

(1) For the period on and after [date TBD], for covered entities that are not small health plans.

(2) For the period on and after [date TBD], for small health plans.

Dated: November 1, 2022.

Xavier Becerra

Secretary, Department of Health and Human Services.

[FR Doc. 2022–24114 Filed 11–7–22; 4:15 pm]

BILLING CODE 4150–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 18–143, 10–90; FCC 22–79; FR ID 112958]

The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient

resiliency and redundancy during the transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

DATES: Comments are due on or before December 9, 2022, and reply comments are due on or before December 27, 2022.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 10–90 and 18–143, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of a proceeding, the Commission's rules require paper filers to submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in this document. Comments may be filed using ECFS. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Dangkhoa Nguyen, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Dangkhoa.Nguyen@fcc.gov* or 202–418–7400, or Jesse Jachman, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Jesse.Jachman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 18–143 and 10–90, adopted on October 27, 2022, and released on October 28, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-further-strengthen-storm-hardened-puerto-rico-usvi-networks-0.*

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

I. Introduction

1. According to the United States Department of Agriculture, ''the major threat of disaster in Puerto Rico and the U.S. Virgin Islands comes from hurricanes, tropical storms, and drought.'' In 2017, two hurricanes battered these Territories, causing extensive damage and loss of life. Although repair of infrastructure was critical, ''simply putting vulnerable systems back to the way they were before they collapsed is not enough.'' The outages, flooding, and landslides in Puerto Rico caused by the recent Hurricane Fiona demonstrate that infrastructure in areas prone to hurricanes must be built to withstand storm damage and have redundant capabilities.

2. In the aftermath of the 2017 hurricanes, the Commission committed to ensuring the restoration, hardening, and expansion of advanced telecommunications networks in the Territories by creating the Bringing Puerto Rico Together Fund and the Connect USVI Fund. As part of these efforts, the Commission adopted a plan to support state-of-the-art mobile wireless networks, including the 5G services being deployed nationwide. For fixed broadband services, the Commission adopted a new, single-round competitive process to award fixed broadband support tied to defined deployment and public interest obligations over a 10-year period in place of the frozen support carriers were then receiving. With the effects of Hurricane Fiona clearly evident, the Commission now seeks to build on these efforts and ensure that carriers maintain and strengthen existing facilities while network construction and improvement continue toward the goal of bringing more advanced services to the Commonwealth of Puerto Rico and the U.S. Virgin Islands (together ''the Territories''). As explained in the following, the Commission seeks comment on proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient resiliency and redundancy during the

transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

II. The Bringing Puerto Rico Together Fund and the Connect USVI Fund

3. The Commission provided a three-year period of support for mobile carriers to rebuild their networks to their pre-hurricane coverage levels. In addition, carriers had the opportunity to accept additional funding dedicated to the expansion of 5G services throughout the Territories. Although substantial progress has been made, this Stage 2 mobile support will end in 2023, and it appears now that more work is needed to ensure that Puerto Rico and the U.S. Virgin Islands enjoy the same levels of service as the mainland. Hurricane Fiona has provided a reminder of the critical nature of mobile services in times of emergency and that carriers must have the resources necessary to prepare for and repair from severe storms. The Commission seeks comment on these issues.

4. *Transition for Mobile Support.* The Commission proposes to provide transitional support to those eligible facilities-based mobile carriers currently receiving Stage 2 mobile support. The transitional support is for the purpose of maintaining the availability of service until a longer-term support mechanism is adopted and does not supplant the Commission's goal of furthering the deployment of advanced mobile services. The Commission believes that the preservation of service and advancement of mobile networks will be best achieved by providing transitional support for facilities-based carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund. At a time of heightened risk from hurricanes, the Commission feels that any lapse in funding, no matter how brief, may leave progress already made in increasing the robustness of existing 4G telecom services and expanding 5G at risk. Should all facilities-based carriers that received mobile support for restoration, hardening, and expansion be eligible for transitional support? The Commission also notes that support recipients in the Territories must submit their first annual reports later this year. Should the data the Commission receives from those reports impact the provision of transitional support?

5. *Transitional Support Schedule.* For the transition period, the Commission proposes to provide support for up to two years (24 months) beginning in the month immediately following the conclusion of each eligible carrier's current Stage 2 mobile support. The Commission tentatively concludes that providing support immediately following the completion of the current mobile support period will allow a seamless preservation of service and will encourage carriers to continue the hardening and expansion of advanced mobile networks in the Territories. The Commission seeks comment on this tentative conclusion.

6. The Commission adopted the current Stage 2 three-year support period to allow further development of the procedures and standards for mobile voice and broadband services for possible future application in the Territories. At the time, the Commission anticipated issuing a Further Notice of Proposed Rulemaking to seek comment on the implementation of a long-term support process for high-speed mobile broadband networks through Puerto Rico and the U.S. Virgin Islands before Stage 2 ended. Notwithstanding the Commission's proposal for a transition period of up to two years, it proposes that transitional support will cease once support is authorized under a long-term mobile wireless mechanism for Puerto Rico and the U.S. Virgin Islands. The Commission seeks comment on its proposal for the period of transitional support, including whether to continue transitional support after two years if authorizations under a long-term mechanism have not yet occurred.

7. *Transitional Support Amounts.* The Commission proposes to provide transitional support for each eligible facilities-based mobile carrier in an amount equal to the Stage 2 mobile support it currently receives for 5G technologies. For Stage 2, the Commission allocated 25% of the total Stage 2 mobile support of $258.8 million for the Territories toward 5G network deployment. Participating carriers elected to receive approximately $21.2 million annually for 5G networks in Puerto Rico and approximately $367,000 annually for 5G networks in the U.S. Virgin Islands. Carriers are required to return any unused Stage 2 mobile support to the Universal Service Administrative Company within 30 days following the end of the three-year support period. The Commission's proposed transitional support amount is based on the tentative conclusion that mobile carriers will have successfully restored and hardened their mobile networks by the end of the Stage 2 period, so less support will be needed. The Commission seeks comment on whether Stage 2 recipients have already been using more than 25% of their available support, *i.e.,* if recipients have used a portion of the 75% of support allocated for 4G LTE or better, for the deployment of 5G technologies, to determine whether the proposed amount of transitional support is appropriate. The Commission notes that it is in the process of updating its fixed and mobile broadband availability maps with more detailed and precise information on the availability of fixed and mobile broadband service. The Commission seeks comment on whether it should use these Broadband Data Collection maps to determine transitional support amounts or if it is better to maintain a stable amount of support to allow carriers to make plans on how best to expand and harden their networks.

8. The Commission required eligible facilities-based mobile carriers to meet interim and final milestones to restore their network coverage to at least their pre-hurricane area, while also meeting public interest and network performance obligations for 4G LTE and 5G network technologies. While the interim milestone reporting deadline date has not been reached, staff analyses based on June 2021 Form 477 data preliminarily indicate that mobile carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund will have met, or exceeded, their interim milestone to restore network coverages to at least 66% of their pre-hurricane coverages. Similarly, the Commission's review of carriers' publicly available coverage maps reflects significant coverage of the Territories with 4G LTE and 5G capable networks. Do participating carriers require a different amount of transitional support to preserve service following the full restoration of pre-hurricane coverage areas? Should the transitional support for each eligible facilities-based mobile carrier vary depending on any network resilience performance metrics? Should any unused Stage 2 mobile support designated for 5G networks be used to offset a carrier's transitional support? For example, if a carrier was unable to use all of the 25% of total support allocated to 5G networks, should that unused support be deducted from the transitional support the carrier would otherwise receive? Is the amount of proposed transitional support sufficient to permit carriers to further harden advanced telecommunication networks supporting 5G service? The Commission seeks comment on its proposal for transitional support amounts, along with any evidence of why a different support amount or alternative proposals might be necessary.

9. *Appropriate Use of Support.* In the *2019 PR USVI Order,* 84 FR 59937, November 7, 2019, the Commission observed that carriers were rapidly

investing in 5G deployment across the country and directed support toward 4G LTE and 5G technologies to ensure that consumers in the Territories were not relegated to substandard mobile service. In light of that investment, the Commission proposes to limit transitional support to restoring, hardening, or expanding networks with 5G-capable networks, and to end use of this support for 4G LTE. Would such a requirement be consistent with the Commission's goal to ''target universal service funding to support the deployment of the highest level of mobile service available today''? The Commission alternatively seeks comment on allowing support recipients to use transitional support to restore (as necessary), harden, or expand networks with 4G LTE and 5G baseline performance requirements and standards set forth in the *2019 PR USVI Order* or any subsequent standard adopted by Commission. Would any other restrictions be appropriate? For example, how would the Commission curtail overbuilding or supporting multiple mobile carriers in areas where more than one carrier already provides at least 4G LTE capable service?

10. *Eligible Areas.* The Commission next seeks comment on allowing a mobile carrier receiving transitional support to continue using such support for the provision, maintenance, and upgrading of facilities and services throughout its territory during the transition. While the Commission generally limits the scope of where high-cost support can be used, the Commission concluded that all areas of Puerto Rico and the U.S. Virgin Islands would be eligible for mobile high-cost support for the restoration, hardening, and expansion of networks to allow carriers ''certain flexibility . . . to determine where hardening and/or expansion will be most impactful.'' Is it still in the public interest to permit use of support throughout Puerto Rico and the U.S. Virgin Islands to implement greater resiliency and redundancy measures to safeguard and preserve service during periods of future natural disasters? Allowing a mobile eligible telecommunications carrier (ETC) the flexibility to allocate its use of high-cost support throughout its territory could allow a carrier to make more efficient decisions to expand or harden networks, as well as ensure service. Alternatively, should the Commission require carriers to limit the use of transitional support to less populated areas of the Territories based on data from the Broadband Data Collection? What geographic or population limitations, if any, should the Commission impose on the use of support to preclude the overbuilding of networks and to encourage hardening and deployment in those areas with the least robust coverage?

11. *Minimum Service Requirements and Reporting.* The Commission tentatively concludes that in exchange for accepting transitional support, each mobile carrier must commit to accountability measures for deployment in the Territories. Currently, competitive carriers receiving high-cost support to provide mobile, terrestrial voice, and data services must comply with minimum service requirements for 4G LTE and 5G–NR technologies. Mobile support recipients are also required to file reports and data regarding the use of support for hardening networks and 5G technology deployment, and to maintain a Disaster Preparation and Response Plan. The Commission sees no reason to deviate from including accountability measures, and it proposes that carriers receiving transitional support continue to be subject to performance and reporting requirements during the transitional support period. The Commission seeks comment on what type of performance and reporting measures should be adopted. Should there be specific deployment commitments or performance requirements by the mobile carriers in exchange for transitional support? If so, what are the appropriate deployment commitments, performance requirements, and corresponding milestones the Commission should consider for the transitional support? What types of reports, data, and verification mechanisms are required to satisfy the deployment commitments and performance requirements? When and how often should mobile carriers be required to submit the reports and data the Commission proposes?

12. *Minimum Security Reporting Requirements.* The provision of advanced services necessitates a recognition that such services, in order to be effective and available, must be reasonably secure. In order to further the Commission's goal of bringing more advanced services to Puerto Rico and the U.S. Virgin Islands, it proposes to require that, in exchange for accepting transitional support, a mobile carrier report and explain the network security controls that it has implemented and how they are commensurate with established best practices or an established risk management framework. The Commission seeks comment on whether, in exchange for accepting transitional support, it should also require that mobile carriers report and explain to the Commission instances of unauthorized access to their systems and services. The Commission seeks comment on how to minimize the burden associated with these disclosures, while also ensuring that they promote the security of advanced services. The Commission emphasizes that mobile carriers' cybersecurity disclosures would not be intended to implicate any additional expenditure of transitional support funds. The Commission seeks comment on this approach.

13. *Election of Transitional Support.* The Commission proposes that mobile carriers affirmatively elect to receive the transitional support, similar to the election process it employed previously for mobile support. Eligible carriers would have a one-time opportunity to elect to receive transitional support in exchange for a commitment to specifically ensure service in their service areas and to use support only for the provision, maintenance, and upgrading of facilities and services for which the transitional support is intended. The Commission seeks comment on the election process for its proposed transitional support.

14. The Commission next addresses the phase-down of frozen support adopted in the *2019 PR USVI Order.* Carriers awarded fixed support to build out high-speed broadband networks with an emphasis on resiliency and redundancy must complete 40% of their required buildout by the end of 2024, with an additional 20% of buildout required at the end of each subsequent year. However, as demonstrated by the damage caused by Hurricane Fiona, current telecommunications networks must be maintained and protected until the services on the new networks start to become available. Under the Commission's current rules, the phase-down in frozen support for incumbent carriers that did not win competitive support will be complete in June 2023, a full one and one-half years prior to the first interim milestone for the winning carriers in the competitive process. The Commission is concerned that incumbent carriers may have insufficient resources to maintain their networks and ensure resiliency during this period.

15. To ensure continuity of service throughout the Territories, the Commission proposes to freeze phase-down support to the incumbent LECs that did not win competitive support at ⅓ of their total legacy support until the winning applicant is required to meet its 60% deployment milestone by December 31, 2025. The Commission tentatively concludes that this revised phase-down schedule for support strikes

a more appropriate balance to ensure service in light of the heightened risks of hurricanes in the Territories during the 18-month gap in time following the end of the current phase-down schedule and first deployment milestone deadline of December 31, 2024, for winning applicants. The Commission seeks comment on this tentative conclusion. The Commission notes that service may already be available to consumers from a winning Stage 2 applicant or other unsubsidized carriers in certain areas. Is providing support to areas where service is already available consistent with the Commission's commitments to fiscal responsibility and efficiently targeted support? The Commission seeks comment on whether the period of time and amount of support it proposes for additional phase-down support promotes access to quality services in the most cost-effective and efficient manner possible.

16. While the Commission proposes to extend phase-down support to December 31, 2025, are there other possible circumstances in which it would be appropriate for the Commission to consider extending or shortening the phase-down period? Would a significant delay or substantial failure to meet the final deployment milestone by the winning applicant require an extension of phase-down support? Conversely, should the Commission consider shortening its proposed additional phase-down period if a winning applicant meets its milestones earlier than required? The Commission seeks comment on any additional factors and circumstances it should consider in adjusting the phase-down period. Are there actions the Commission should take to ensure sufficient flexibility in the event that support should be curtailed or extended?

17. The Commission also proposes that an incumbent LEC must limit its use of the phase-down support to resiliency and redundancy measures, consistent with the *2019 PR USVI Order,* to continue hardening its network, and that the incumbent LEC must at least maintain its current footprint for voice and broadband services. The Commission notes that since part of the Disaster Preparation and Response Plan adopted by the *2019 PR USVI Order* includes ensuring network diversity and backup power, use of transitional phase-down support to purchase and maintain generators to address power failures would be appropriate under the Commission's proposal. The Commission seeks comment on requiring an incumbent LEC receiving additional phase-down support to maintain its Disaster Preparation and Preparedness Plan. Should the Commission impose any other specific uses or limitations, *e.g.,* a geographic limitation, for the use of additional phase-down support? What other obligations or commitments, if any, should apply to an incumbent LEC that receives additional phase-down support under the Commission's proposal? The Commission also seeks comment on whether to adopt a formal procedural process for an incumbent LEC to affirmatively accept additional phase-down support or opt out of receiving any additional phase-down support.

18. To provide oversight and accountability and prevent waste, fraud, and abuse, the Commission proposes to subject phase-down support recipients to ongoing oversight by itself and the Universal Service Administrative Company. An incumbent LEC interested in receiving this support would be required to submit a spending plan for its use of phase-down support for redundancy and resiliency measures to the Wireline Competition Bureau (the Bureau) for approval. At the conclusion of each calendar year, the incumbent LEC would be required to provide the Commission with a report of how the phase-down support was spent on resiliency and redundancy measures consistent with the Bureau-approved plan, along with a certification pursuant to section 54.313(n) of the Commission's rules that the support was used only for authorized purposes. The Commission seeks comment on this proposal. Should the Commission require additional oversight and accountability measures specific to the receipt of phase-down support? Are there alternative measures the Commission should consider to ensure oversight and accountability of providers receiving additional phase-down support?

19. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed in this document. Specifically, the Commission seeks comment on how its proposals in the FNPRM may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

20. The FNPRM may contain proposed modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget to comment on any information collection requirements contained in the document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

21. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980 as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

22. The FNPRM proposes support to maintain, improve, and expand mobile services in Puerto Rico and the U.S. Virgin Islands. The FNPRM proposes making support available to a facilities-based mobile carrier that currently receives funding and that maintains its ETC designation using a subscriber-based process. Four mobile carriers in the Territories currently receive high-cost support and three carriers in the Territories currently receive phase-down high-cost support discussed in the FNPRM. The FNPRM does not propose that other carriers will obtain an ETC designation to receive part of the additional support proposed by the FNPRM, so the Commission does not anticipate the proposed rule to affect more than seven providers out of the 1,763 providers currently receiving high-cost support. Accordingly, the Commission anticipates that the FNPRM

will not affect a substantial number of carriers, and so it does not anticipate that it will affect a substantial number of small entities. Therefore, the Commission certifies that the FNPRM will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

IV. Ordering Clauses

23. Accordingly, *it is ordered*, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1 and 1.421, that this FNPRM *is adopted*.

24. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1 and 1.421, notice *is hereby given* of the proposals and tentative conclusions described in the FNPRM of Proposed Rulemaking.

25. *It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the FNPRM on or before 30 days from publication of this item in the **Federal Register**, and reply comments on or before 45 days from publication of this item in the **Federal Register**.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–24395 Filed 11–8–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–BL42

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Halibut Abundance-Based Management of Amendment 80 Prohibited Species Catch Limit

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 123 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 123 would amend regulations governing Pacific halibut (*Hippoglossus stenolepis*) (halibut) prohibited species catch (PSC), or bycatch, limits in the Bering Sea and Aleutian Islands (BSAI) to link the halibut PSC limit for the Amendment 80 commercial groundfish trawl fleet in the BSAI groundfish fisheries to halibut abundance. This action is necessary to comply with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In particular, National Standard 9 and National Standard 1 require fishery management plans to minimize halibut PSC to the extent practicable while achieving optimum yield in the BSAI groundfish fisheries on a continuing basis. Further, National Standard 4 requires fishery management plans to ensure that when it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be fair and equitable, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. National Standard 8 requires that conservation and management measures take into account the importance of fishery resources to fishing communities by utilizing economic and social data that are based upon the best scientific information available in order to provide for the sustained participation of such communities and, to the extent practicable, minimize adverse economic impacts on such communities. Amendment 123 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the BSAI FMP, and other applicable laws.

DATES: Comments must be received no later than January 9, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0088, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter [NOAA–NMFS–2022–0088] in the Search box. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Mail: Submit written comments to Josh Keaton, Acting Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the final Environmental Impact Statement and the Regulatory Impact Review (collectively referred to as the ''Analysis'') prepared for this proposed rule may be obtained from *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907–586–7642.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 123 to the BSAI FMP is available for public review and comment.

NMFS manages the U.S. groundfish fisheries in the exclusive economic zone under the BSAI FMP. The Council prepared the BSAI FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the BSAI FMP appear at 50 CFR parts 600 and 679. The International Pacific Halibut Commission (IPHC) and NMFS manage Pacific halibut fisheries through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act) (16 U.S.C. 773–773k). The IPHC adopts regulations governing the target fishery for Pacific halibut under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering

Sea (Halibut Convention). For the United States, regulations governing the fishery for Pacific halibut developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. This action regulates bycatch in the groundfish fisheries under the BSAI FMP. Therefore, the proposed action was developed within the Council process and recommended to NMFS for implementation.

Pacific halibut is fully utilized in Alaska as a target species in subsistence, personal use, recreational (sport), and commercial halibut fisheries. Halibut has significant social, cultural, and economic importance to fishery participants and fishing communities throughout the geographical range of the resource. Halibut is also incidentally taken as bycatch in commercial groundfish fisheries. In recent years, catch limits for the commercial halibut fishery in the BSAI have declined in response to decreasing halibut spawning biomass although halibut catch limits increased in 2021, while limits on the maximum amount of halibut bycatch allowed in the groundfish fisheries have remained constant since 2015, when they were reduced under BSAI FMP Amendment 111. This BSAI FMP amendment, if approved, would set annual halibut PSC limits in the BSAI Amendment 80 sector groundfish fisheries based on halibut abundance, which is the sector with the largest share of PSC limits. This proposed approach is consistent with the requirements of the Magnuson-Stevens Act to minimize bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries.

Halibut is not a groundfish species under the BSAI FMP and, therefore, is not subject to provisions of the Magnuson-Stevens Act requiring the establishment of an annual overfishing limit (OFL), an acceptable biological catch (ABC), or a total allowable catch (TAC) limit. This is because it is subject to the Halibut Convention. Although halibut is not managed under an OFL, ABC, or TAC, the IPHC has developed a harvest policy to control removals during conditions of declining or poor stock abundance. The IPHC harvest policy includes a harvest control rule that reduces commercial harvest rates if the stock is estimated to have fallen below established thresholds for female spawning biomass. The harvest control rule would severely curtail removals during times of particularly poor stock conditions. The harvest control rule has not been triggered, even during the most recent years of relatively low exploitable biomass (see Section 3.1.1.1 and Section 3.1.2.1 of the Final Environmental Impact Statement and the Regulatory Impact Review (collectively referred to as the ''Analysis'')).

The IPHC conducts an annual stock assessment for the coastwide halibut stock. Based on the most recent stock assessment for Pacific halibut, the estimated spawning stock biomass has been stable since 2010. Stock assessment models used by the IPHC in 2020 project a decreasing female spawning biomass over the next few years, assuming current removal rates from all sources. Advice from the most recent stock assessment ensemble is presented annually to the IPHC as a risk-based decision matrix that combines different catch levels and various performance metrics. In 2017, the previous IPHC harvest policy was replaced with an interim harvest strategy policy while a management strategy evaluation process is underway. This approach sets a coastwide commercial catch limit considering mortality from all sources and then distributes the commercial catch limit across IPHC Regulatory Areas using estimates of stock distribution from the IPHC fishery independent setline survey and relative harvest rates.

The commercial halibut fishery in the BSAI is managed by NMFS under the Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) Programs that allocate exclusive harvest privileges. The IFQ Program was implemented in 1995 (58 FR 59375, November 9, 1993). The Council and NMFS designed the IFQ Program to end a wasteful and unsafe ''race for fish,'' and to maintain the social and economic character of the fixed-gear fisheries and the coastal fishing communities where many of these fisheries are based. The CDQ Program was established in 1992 (57 FR 54936, November 23, 1992) and amended substantially by the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109–241)). Under Section 305(i)(1)(D) of the Magnuson-Stevens Act, 65 villages are authorized to participate in the CDQ Program, represented by 6 CDQ groups (16 U.S.C. 1855(i)(1)(D)). CDQ groups manage and administer allocations of crab, groundfish, and halibut, and use the revenue derived from the harvest of CDQ allocations to fund economic development activities and provide employment opportunities on behalf of the villages they represent. The amount of halibut for commercial harvest allocated to the CDQ Program varies by halibut management area and ranges from 20 to 100 percent of the commercial catch limits assigned to Areas 4B, 4C, 4D, and 4E.

The combined CDQ and IFQ halibut fisheries in Area 4 were harvested by an average of approximately 120 vessels from 2015 through 2019. The CDQ and IFQ halibut fisheries provide revenue to vessel owners and crew that harvest halibut. These fisheries also provide economic benefits to shore-based halibut processors and socioeconomic benefits to BSAI fishing communities that provide support services to the halibut harvesting and processing sectors. From 2015 through 2019, Area 4 halibut ex-vessel revenues declined by 32 percent, resulting in negative economic impacts for fishery participants and affected fishing communities due to changing market conditions, while catch of halibut in Area 4 has remained relatively constant.

In Area 4, the specific proportion of halibut removals that are taken as PSC in the groundfish fisheries versus catch in the commercial halibut fishery has shifted over time. From 1990 to 1996, commercial halibut fisheries averaged 37 percent and PSC averaged 60 percent of total halibut removals. From 1997 to 2011, commercial halibut fishery removals increased as a portion of total removals; commercial halibut fisheries averaged 57 percent and PSC averaged 41 percent of total halibut removals. From 2012 through 2014, commercial halibut fishery removals decreased as a portion of total removals; commercial halibut fishery averaged 41 percent and PSC averaged 55 percent of total removals. From 2016 through 2019, commercial halibut fishery averaged 52 percent and PSC averaged 47 percent of total removals.

Halibut PSC is taken by vessels using all gear types, but it occurs primarily in the trawl and hook-and-line groundfish fisheries. NMFS manages halibut bycatch in the BSAI by (1) establishing halibut PSC limits for trawl and non-trawl fisheries; (2) apportioning those halibut PSC limits to groundfish sectors, fishery categories, and seasons; and (3) managing groundfish fisheries to prevent PSC from exceeding established limits.

Current halibut PSC limits for BSAI groundfish fisheries were established by Amendment 111 to the BSAI FMP in 2016 (81 FR 24714, April 27, 2016). The current total annual halibut PSC limit for BSAI groundfish fisheries is 3,515 metric tons (mt). Of that, 1,745 mt are apportioned to the Amendment 80 sector, which is comprised of 27 non-pollock trawl catcher/processors. Of the four BSAI groundfish fishery sectors, the Amendment 80 sector is apportioned the majority of halibut PSC

in the BSAI (approximately 50 percent). For this and several reasons described in the proposed rule implementing Amendment 123, the Council recommended, and NMFS agrees, that this proposed amendment should only affect the halibut PSC limit for the Amendment 80 sector.

The Amendment 80 sector halibut PSC limit of 1,745 mt is apportioned between Amendment 80 cooperatives and the Amendment 80 limited access fishery according to the process specified at 50 CFR 679.91. Amendment 80 cooperatives are responsible for coordinating fishing activities to ensure the cooperative halibut PSC allocation is not exceeded. The Amendment 80 groundfish fisheries provide revenue to Amendment 80 vessel owners and crew members that harvest and process groundfish. In addition, the fisheries provide socioeconomic benefits to fishing communities that provide support services for Amendment 80 vessel operations.

The halibut PSC limit established for each BSAI groundfish sector is an upper limit on halibut PSC for that sector for each year. However, the amount of halibut PSC used by a BSAI groundfish sector is almost always less than its halibut PSC limit. Halibut PSC use is less than the halibut PSC limit due to a range of operational factors, including the need to avoid a closure or enforcement action if a PSC allocation is reached. The current halibut PSC limit for the Amendment 80 sector is 1,745 mt, the non-Amendment 80 trawl limited access sector limit is 745 mt, the CDQ limit is 315 mt, and the non-trawl sector limit is 710 mt. From 2010 through 2020, the Amendment 80 sector has accounted for roughly 60 percent of the overall BSAI groundfish trawl PSC mortality. In recent years, catch limits for the commercial halibut fishery in the BSAI have declined, while these limits on the maximum amount of halibut PSC have remained constant, making halibut bycatch a larger proportion of total removal.

Therefore, consistent with the Council's purpose and need statement for this amendment to prevent halibut PSC from becoming a larger proportion of total removals in the BSAI as halibut abundance declines, the Amendment 80 halibut PSC limit should decline in proportion to reduced amounts of halibut available for harvest by all users. The proposed amendment balances the interests of the two largest halibut user groups in the BSAI, the directed commercial halibut fishery and the Amendment 80 sector, as well as other users including subsistence and recreational, by establishing abundance-based halibut PSC limits for the Amendment 80 sector. This abundance-based approach is consistent with the IPHC management approach for the directed commercial halibut fisheries off Alaska, which establishes annual catch limits that vary with halibut abundance.

In any given year, results from the most recent IPHC setline survey index for halibut in Area 4ABCDE would be categorized into one of four ranges including very low, low, medium, and high. Annual results from the NMFS Alaska Fisheries Science Center (AFSC) Eastern Bering Sea (EBS) trawl survey index for halibut would be categorized into a high or low range. Under this proposed amendment, each year the intercept of the most recent survey results in the proposed index table would establish the annual halibut PSC limit for the Amendment 80 sector. Those limits would range from the current Amendment 80 halibut PSC limit when abundance is high in the IPHC setline survey to 35 percent below the current limit when abundance is very low in the IPHC setline survey.

In December 2021, the Council recommended, and NMFS now proposes, Amendment 123 to link the halibut PSC limit for the Amendment 80 commercial groundfish trawl fleet in the BSAI groundfish fisheries to halibut abundance. In recommending Amendment 123, the Council intends to minimize halibut PSC to the extent practicable while achieving optimum yield in the BSAI groundfish fisheries on a continuing basis. The amendment, if approved, would be expected to provide incentives for the Amendment 80 fleet to minimize halibut mortality at all times. Achievement of these objectives could result in additional harvest opportunities in the directed commercial halibut fisheries, helping to provide for the sustained participation of such communities that participate in those directed fisheries and allowing for a fair and equitable allocation of the resource. Based on a review of the scientific information and consideration of the revised National Standard guidelines, the Council and NMFS determined that reducing halibut PSC with declining halibut abundance provides conservation benefits, as defined by the Magnuson-Stevens Act. The Council and NMFS determined that this proposed amendment, if approved, may provide additional harvest opportunities for the commercial halibut fisheries.

Amendment 123 would amend Sections 3.6.2 and 3.7.5 of the BSAI FMP to establish the link between the halibut PSC limit for the Amendment 80 sector in the BSAI groundfish fisheries and halibut abundance. Amendment 123 would allow NMFS to annually set the halibut PSC limit for the Amendment 80 sector according to halibut abundance indices from the most recent annual IPHC setline survey and the NMFS AFSC EBS shelf trawl survey. Section 3.7.5.2 of the BSAI FMP currently apportions the halibut PSC limit in the BSAI between the Amendment 80 sector and the BSAI trawl limited access sector and sets the annual halibut mortality PSC limit for the Amendment 80 sector at 1,745 mt. This static limit would be replaced by instructions indicating that the limit would be set annually. Section 3.6.2.1.4 of the BSAI FMP reiterates the halibut PSC limit in the BSAI for the Amendment 80 sector is set at 1,745 mt. The revision in this section would replace the static limit with the process for setting the annual halibut mortality PSC limit for the Amendment 80 sector. That process would be based on a table with pre-established halibut abundance ranges from the IPHC survey setline index in Area 4ABCDE and the AFSC EBS shelf trawl survey index. The annual Amendment 80 sector halibut PSC limit would be set at the value found at the intercept of the results from the most recent IPHC setline survey in Area 4ABCDE and the most recent AFSC EBS shelf trawl survey.

NMFS is soliciting public comments on proposed Amendment 123 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and to seek public comment on a proposed rule that would implement Amendment 123, following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendment 123 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the BSAI FMP amendment or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendments 123 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendment 123. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: November 3, 2022.

Kelly Denit,

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

[FR Doc. 2022–24418 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 216
Wednesday, November 9, 2022

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

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; System of Records and Routine Uses

AGENCY: Central Intelligence Agency.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and Office of Management and Budget (OMB) Circular No. A–108, notice is hereby given that the Central Intelligence Agency (CIA or ''the Agency'') is modifying one of its system of records notices, CIA–21, Applicant Records, to reflect the Agency's maintenance of records on prospective applicants.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Kristi Scott, Privacy and Civil Liberties Officer, Central Intelligence Agency, Washington, DC 20505, (571) 280–2700.

SUPPLEMENTARY INFORMATION: On July 22, 2005, the Agency published in the **Federal Register** notices for all of its Privacy Act systems of record. 70 FR 42,418. CIA included among them notice to the public of CIA system of records CIA–21, Applicant Records. CIA maintains CIA–21 to, among other purposes, ensure process integrity, enable the CIA and the Director of the CIA to carry out their lawful and authorized responsibilities, and to review an individual's qualifications for employment with the CIA. From time to time, CIA may receive, request, and/or maintain records demonstrating an individual's qualifications for employment from individuals who have not yet formally applied to the Agency. CIA refers to these individuals as ''prospective applicants.'' To better inform the public of CIA's maintenance of such records, CIA is modifying CIA–21 to cover both applicants and prospective applicants for employment with the CIA. Specifically, CIA is modifying the ''Purpose(s),'' ''Categories of Individuals Covered by the System,'' ''Categories of Records in the System,'' and ''Record Source Categories'' paragraphs to include prospective applicants.

In accordance with 5 U.S.C. 552a(r), the Agency has provided a report to OMB and Congress on this notice of a modified system of records.

Dated: November 3, 2022.

Kristi Lane Scott,

Privacy and Civil Liberties Officer, Central Intelligence Agency.

CIA–21

SYSTEM NAME:

Applicant Records

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

SYSTEM MANAGER(S):

Chief, Recruitment Center, Central Intelligence Agency, Washington, DC 20505.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

[Delete existing paragraph and replace with the following:]

Applicants and prospective applicants for employment with the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

[Delete existing paragraph and replace with the following:]

Records concerning the applicant or prospective applicant, including: biographic data, medical and employment history statements, educational transcripts, and personal references; and records relating to employment processing, including: interview reports, test results, correspondence, review comments, and general processing records.

* * * * *

PURPOSE(S):

[Delete existing paragraph and replace with the following:]

Records are used by CIA human resources management officials and other authorized personnel: to ensure process integrity; to enable the CIA and the Director of the CIA to carry out their lawful and authorized responsibilities; to review an applicant's or prospective applicant's qualifications; for security background investigations; for suitability determinations; for medical screening; and to determine whether employment with the CIA will be offered.

* * * * *

RECORD SOURCE CATEGORIES:

[Delete existing paragraph and replace with the following:]

CIA applicants or prospective applicants; applicant or prospective applicant references; educational institutions and private organizations; physicians and medical practitioners; CIA employees; and other federal agencies.

* * * * *

HISTORY:

70 FR 42417, July 22, 2005.

[FR Doc. 2022–24444 Filed 11–8–22; 8:45 am]

BILLING CODE 6310–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) to determine if Kader Exports Private Limited (Kader Exports) is the successor-in-interest to the Liberty Group in the context of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India. We preliminarily determine that Kader Exports is the successor-in-interest to the Liberty Group.

DATES: Applicable November 9, 2022.

FOR FURTHER INFORMATION CONTACT: Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6172.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, Commerce published in the **Federal Register** an AD order on shrimp from India.[1] On September 19, 2022, Kader Exports requested that Commerce conduct an expedited changed circumstances review, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216, and 19 CFR 351.221(c)(3), to confirm that Kader Exports is the successor-in-interest to the Liberty Group [2] for the purposes of determining AD cash deposits and liabilities.[3] In its submission, Kader Exports notes that, in 2019, it underwent a restructuring in which the companies comprising the Liberty Group were merged into Kader Exports. In addition, Kader Exports notes that Liberty Oil Mills, a producer of non-subject merchandise, should no longer be collapsed with Kader Exports.[4]

Scope of the Order

The merchandise subject to the *Order* is certain frozen warmwater shrimp.[5] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 0306.17.00.03, 0306.17.00.04, 0306.17.00.05, 0306.17.00.06, 0306.17.00.07, 0306.17.00.08, 0306.17.00.09, 0306.17.00.10, 0306.17.00.11, 0306.17.00.12, 0306.17.00.13, 0306.17.00.14, 0306.17.00.15, 0306.17.00.16, 0306.17.00.17, 0306.17.00.18, 0306.17.00.19, 0306.17.00.20, 0306.17.00.21, 0306.17.00.22, 0306.17.00.23, 0306.17.00.24, 0306.17.00.25, 0306.17.00.26, 0306.17.00.27, 0306.17.00.28, 0306.17.00.29, 0306.17.00.40, 0306.17.00.41, 0306.17.00.42, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Initiation and Preliminary Results of CCR

Pursuant to section 751(b)(1) of the Act, Commerce will conduct a CCR upon receipt of information concerning, or a request from, an interested party for a review of an AD order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by Kader Exports supporting its claim that it is the successor-in-interest to Liberty Group demonstrates changed circumstances sufficient to warrant such a review.[6] Therefore, in accordance with section 751(b)(1)(A) of the Act and 19 CFR 351.216(d) and (e), we are initiating a CCR based upon the information contained in Kader Exports' submission.

Section 351.221(c)(3)(ii) of Commerce's regulations permits Commerce to combine the notice of initiation of a CCR and the notice of preliminary results if Commerce concludes that expedited action is warranted.[7] In this instance, because the record contains information necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.[8]

In this CCR, pursuant to section 751(b) of the Act, Commerce conducted a successor-in-interest analysis. In making a successor-in-interest determination, Commerce examines several factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.[9] While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, Commerce will consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.[10] Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, Commerce may assign the new company the cash deposit rate of its predecessor.[11]

In accordance with 19 CFR 351.216, we preliminarily determine that Kader Exports is the successor-in-interest to the Liberty Group. Record evidence, as submitted by Kader Exports, indicates that Kader Exports operates as essentially the same business entity as the Liberty Group with respect to the subject merchandise.[12]

For the complete successor-in-interest analysis, including discussion of business proprietary information, refer to the accompanying Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public 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 is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Commerce will issue its final results of the review in accordance with the time limits set forth in 19 CFR 351.216(e).

Public Comment

In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147 (February 1, 2005) (*Order*).

[2] The Liberty Group includes the following affiliated companies: Devi Marine Food Exports Private Limited, Kader Exports Private Limited (Kader Exports), Kader Investment and Trading Company Private Limited, Liberty Frozen Foods Private Limited, Liberty Oil Mills Limited, Premier Marine Products Pvt. Ltd., and Universal Cold Storage Private Limited.

[3] *See* Kader Exports' Letter, ''Request for an expedited Changed Circumstances Review,'' dated September 19, 2022 (Kader Exports CCR Request).

[4] *Id.*

[5] For a complete description of the scope of the *Order, see* Memorandum, ''Initiation and Preliminary Results of Changed Circumstances Review,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* 19 CFR 351.216(d).

[7] *See* 19 CFR 351.221(c)(3)(ii); see also *Certain Pasta from Italy: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 80 FR 33480, 33480–41 (June 12, 2015) (*Pasta from Italy Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of Changed Circumstances Review,* 80 FR 48807 (August 14, 2015) (*Pasta from Italy Final Results*).

[8] *See, e.g., Pasta from Italy Preliminary Results,* 80 FR at 33480–41, unchanged in *Pasta from Italy Final Results,* 80 FR at 48807.

[9] *See, e.g., Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 81 FR 75376 (October 31, 2016) (*Shrimp from India Preliminary Results*), unchanged in *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 81 FR 90774 (December 15, 2016) (*Shrimp from India Final Results*).

[10] *See, e.g., Shrimp from India Preliminary Results,* 81 FR at 75377, unchanged in *Shrimp from India Final Results,* 81 FR at 90774.

[11] *Id.; see also Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan,* 67 FR 58, 59 (January 2, 2002); *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review,* 75 FR 34688, 34689 (June 18, 2010); and *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Preliminary Results of Antidumping Duty Changed Circumstances Review,* 63 FR 14679 (March 26, 1998), unchanged in *Circular Welded Non-Alloy Steel Pipe from Korea; Final Results of Antidumping Duty Changed Circumstances Review,* 63 FR 20572 (April 27, 1998), in which Commerce found that a company which only changed its name and did not change its operations is a successor-in-interest to the company before it changed its name.

[12] *See* Kader Exports CCR Request.

raised in the case briefs, may be filed no later than seven days after the case briefs, in accordance with 19 CFR 351.309(d). Parties who submit case or rebuttal briefs 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.[13] All comments are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) available to registered users at *https://access.trade.gov.* An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.[14] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request via ACCESS within 30 days of publication of this notice. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing, in accordance with 19 CFR 351.310(d).

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b), 351.221(b) and 351.221(c)(3).

Dated: November 3, 2022.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–24468 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–DS–P

[13] *See* 19 CFR 351.309(c)(2).

[14] *See* 19 CFR 351.303(b).

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to Covid-19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; and Final Determination of No Shipments; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Jilin Bright Future Chemicals Co., Ltd. (Jilin Bright) sold certain activated carbon from the People's Republic of China (China) at less than normal value during the period of review (POR), April 1, 2020, through March 31, 2021. Commerce also determines that Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang) did not make sales of subject merchandise at less than normal value during the POR. Commerce further determines that certain companies made no shipments of the subject merchandise during the POR.

DATES: Applicable November 9, 2022.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn or Zachariah Hall, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339 or (202) 482–6261, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2022, Commerce published the *Preliminary Results.*[1] For events subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2] On August 3, 2022,[3] in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for issuing the final results until November 2, 2022.

Scope of the Order [4]

The merchandise subject to the *Order* is certain activated carbon. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

[1] *See Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments; 2020–2021,* 87 FR 27094 (May 6, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Certain Activated Carbon from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fourteenth Antidumping Duty Administrative Review,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Activated Carbon from the People's Republic of China: Extension of Deadline for Final Results of the 2020–2021 Antidumping Duty Administrative Review,'' dated August 3, 2022.

[4] *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China,* 72 FR 20988 (April 27, 2007) (*Order*).

Analysis of Comments Received

All issues raised by interested parties in briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain revisions to the margin calculations for Datong Juqiang [5] and Jilin Bright,[6] and consequently, to the rate assigned to the non-examined, separate rate respondents.[7]

Final Determination of No Shipments

In the *Preliminary Results,* we preliminarily determined that Beijing Pacific Activated Carbon Products Co., Ltd.; Shanxi Dapu International Trade Co., Ltd.; and Tianjin Channel Filters Co., Ltd. had no shipments of subject merchandise to the United States during the POR.[8] No party filed comments with respect to this preliminary determination and we received no information to contradict it. Therefore, we continue to find that these companies had no shipments of subject merchandise during the POR and will issue appropriate liquidation instructions that are consistent with our ''automatic assessment'' clarification for these final results.[9]

Separate Rate Respondents

In our *Preliminary Results,* we determined that Datong Juqiang, Jilin Bright, and eight other companies demonstrated their eligibility for separate rates.[10] We received no arguments since the issuance of the *Preliminary Results* that provide a basis for reconsideration of these determinations. Therefore, for these final results, we continue to find that the ten companies listed in the table in the ''Final Results'' section of this notice are each eligible for a separate rate.

Rate for Non-Examined Separate Rate Respondents

In the *Preliminary Results,*[11] and consistent with Commerce's practice,[12] we assigned the non-examined, separate rate companies a rate equal to the calculated weighted-average dumping margin for the mandatory respondent whose rate was not zero, *de minimis* (*i.e.,* less than 0.5 percent), or based entirely on facts available (*i.e.,* the weighted-average dumping margin for Jilin Bright). No parties commented on the methodology for calculating this separate rate. For the final results, we continue to apply this approach, as it is consistent with the intent of, and our use of, section 735(c)(5)(A) of the Act.[13]

Final Results of Review

For companies subject to this review, which established their eligibility for a separate rate, Commerce determines that the following weighted-average dumping margins exist for the period from April 1, 2020, through March 31, 2021:

Exporters	Weighted-average dumping margin (USD/kg) [14]
Datong Juqiang Activated Carbon Co., Ltd	0.00
Jilin Bright Future Chemicals Co., Ltd	0.62
Review-Specific Rate Applicable to the Following Companies: [15]	
Carbon Activated Tianjin Co., Ltd	0.62
Datong Municipal Yunguang Activated Carbon Co., Ltd	0.62
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd	0.62
Ningxia Huahui Environmental Technology Co., Ltd. (formerly Ningxia Huahui Activated Carbon Co., Ltd.) [16]	0.62
Ningxia Mineral & Chemical Limited	0.62
Shanxi Industry Technology Trading Co., Ltd	0.62
Shanxi Sincere Industrial Co., Ltd	0.62
Tancarb Activated Carbon Co., Ltd	0.62

[5] *See* Memoranda, ''Antidumping Duty Administrative Review of Certain Activated Carbon the People's Republic of China: Final Results Calculation Memorandum for Datong Juqiang Activated Carbon Co., Ltd.,'' dated concurrently with this notice (Datong Juqiang's Final Calculation Memorandum); and ''Fourteenth Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Final Results,'' dated concurrently with this notice.

[6] *See* Memorandum, ''Antidumping Duty Administrative Review of Certain Activated Carbon the People's Republic of China: Final Results Calculation Memorandum for Jilin Bright Future Chemicals Co., Ltd.,'' dated concurrently with this notice (Jilin Bright's Final Calculation Memorandum).

[7] For details on the changes made since the *Preliminary Results, see* the Issues and Decision Memorandum.

[8] *See Preliminary Results,* 87 FR at 27094.

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment Practice Refinement*).

[10] *See Preliminary Results* PDM at 5–9.

[11] *Id.* at 10–11.

[12] *See, e.g., Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 36656, 36660 (July 24, 2009).

[13] *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 56158, 56160 (September 12, 2011).

In the *Preliminary Results,* Commerce found that six companies for which a review was requested [17] did not establish eligibility for a separate rate because they did not file a timely separate rate application or a separate rate certification, as appropriate.[18] No party except Jacobi [19] commented on Commerce's *Preliminary Results* with respect to separate rates. With respect to Jacobi,[20] we made no changes to our *Preliminary Results.*[21] Therefore, for these final results, we determine the six companies identified in Appendix II to be part of the China-wide entity. Because no party requested a review of the China-wide entity, and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews,[22] we did not conduct a review of the China-wide entity. Thus, the weighted-average dumping margin for the China-wide entity (*i.e.,* 2.42 USD/kg) [23] is not subject to change as a result of this review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S Customs and Border Protection (CBP) shall assess, ADs on all appropriate entries covered by this review. 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).

For the individually-examined respondent in this review which has a final weighted-average dumping margin that is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer- (or customer-) specific per-unit duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's (or customer's) examined sales to the total sales quantity associated with those sales, in accordance with 19 CFR 351.212(b)(1).[24] We will also calculate (estimated) *ad valorem* importer-specific assessment rates with which to determine whether the per-unit assessment rates are *de minimis.*[25] Where either a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to ADs.[26]

For the respondents which were not selected for individual examination in this administrative review and which qualified for a separate rate, the assessment rate will be equal to the rate assigned to them for the final results (*i.e.,* 0.62 USD/kg). For the companies identified as part of the China-wide entity, we will instruct CBP to apply a per-unit assessment rate of 2.42 USD/kg to all entries of subject merchandise during the POR which were exported by those companies. Pursuant to a refinement in our non-market economy practice, for sales that were not reported in the U.S. sales data submitted by companies individually examined during this review, we will instruct CBP to liquidate entries associated with those sales at the rate for the China-wide entity. Furthermore, where we found that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's cash deposit rate) will be liquidated at the rate for the China-wide entity.[27]

Cash Deposit Requirements

The following per-unit cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for Datong Juqiang, Jilin Bright, and the non-examined separate rate respondents, the cash deposit rate will be equal to their weighted-average dumping margins established in the final results of this

[14] In the second administrative review of the *Order,* Commerce determined that it would calculate per-unit weighted-average dumping margins and assessment rates for all future reviews. *See Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010) (*Carbon from China AR2*), and accompanying Issues and Decision Memorandum (IDM) at Comment 3.

[15] This is the rate applicable to the non-examined separate rate respondents, as discussed above.

[16] In a changed circumstances review of the *Order,* Commerce found that Ningxia Huahui Environmental Technology Co., Ltd. is the successor-in-interest to Ningxia Huahui Activated Carbon Co. Ltd. (Ningxia Huahui), and should be assigned the same antidumping duty (AD) cash deposit rate assigned to Ningxia Huahui for purposes of determining AD liability in this proceeding. *See Certain Activated Carbon from the People's Republic of China: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 86 FR 64184 (November 17, 2021). Therefore, for these final results, we have assigned the same AD rate for cash deposit purposes to Ningxia Huahui Environmental Technology Co., Ltd. as the rate assigned to Ningxia Huahui for assessment purposes.

[17] *See* Appendix II of this notice for a full list of the six companies.

[18] *See Preliminary Results* PDM at 9. The total number of company names for which Commerce initiated this administrative review is 20. Three of those companies submitted timely no shipment certifications, two of those companies are the mandatory respondents, and eight companies are separate rate applicants. Commerce notes that two of the company names for which Commerce initiated this review are different name variations of the same company (*i.e.,* Ningxia Mineral & Chemical Limited; and Ningxia Mineral & Chemical Ltd.), and therefore, were treated as the same company for purposes of this review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 31282, 31289 (June 11, 2021). Further, Commerce notes that Jacobi was included among the six companies that Commerce preliminarily found did not establish eligibility for a separate rate, because Jacobi submitted its no-shipment certification past the deadline of July 12, 2021, and Commerce rejected the certification as untimely. *See Preliminary Results* PDM at 4.

[19] *See* Jacobi's Letter, ''Jacobi's Case Brief,'' dated July 8, 2022.

[20] In the third administrative review of the *Order,* Commerce found that Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd. (Tianjin Jacobi), and Jacobi Carbons Industry (Tianjin) (Jacobi Carbons) (collectively, Jacobi) should be treated as a single entity, and because there were no facts presented on the record of this review which would call into question our prior finding, we continue to treat these companies as part of a single entity for this administrative review, pursuant to sections 771(33)(E), (F), and (G) of the Act, and 19 CFR 351.401(f). *See Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review,* 76 FR 67142, 67145, n.25 (October 31, 2011). Further, in a changed circumstances review of the *Order,* Commerce determined that Jacobi should be collapsed with its new wholly-owned Chinese affiliate, Jacobi Adsorbent Materials (JAM), and the single entity, inclusive of JAM, should be assigned the same AD cash deposit rate assigned to Jacobi for purposes of determining AD liability in this proceeding. *See Certain Activated Carbon from the People's Republic of China: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 86 FR 58874 (October 25, 2021). Therefore, for these final results, we have assigned the new Jacobi single entity, inclusive of JAM, the same AD rate for cash deposit purposes as the rate assigned to Jacobi (*i.e.,* the China-wide rate (2.42 U.S. Dollars (USD)/kilogram (kg))) for purposes of cash deposit and assessment purposes.

[21] *See* Issues and Decision Memorandum at Comment 11 for further discussion.

[22] *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, 65969–70 (November 4, 2013).

[23] *See, e.g., Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014).

[24] *See Carbon from China AR2* IDM at Comment 3.

[25] For calculated (estimated) *ad valorem* importer-specific assessment rates used in determining whether the per-unit assessment rates are *de minimis, see* Datong Juqiang's Final Calculation Memorandum and Jilin Bright's Final Calculation Memorandum, and attached Margin Calculation Program Logs and Outputs.

[26] *See* 19 CFR 351.106(c)(2).

[27] For a full discussion of this practice, *see Assessment Practice Refinement,* 76 FR at 65694.

review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above 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 in which they were reviewed; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the China-wide entity (*i.e.,* 2.42 USD/kg); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These per-unit cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping 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 has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

Companies Not Eligible for a Separate Rate and Treated as Part of the China-Wide Entity

1. Jacobi Carbons AB/Tianjin Jacobi International Trade Co., Ltd./Jacobi Carbons Industry (Tianjin) Co., Ltd./Jacobi Adsorbent Materials
2. Meadwestvaco Trading (Shanghai)
3. Shanxi DMD Corp.
4. Shanxi Tianxi Purification Filter Co., Ltd.
5. Sinoacarbon International Trading Co., Ltd.
6. Tianjin Maijin Industries Co., Ltd.

[FR Doc. 2022–24466 Filed 11–8–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–106]

Wooden Cabinet and Vanities and Components Thereof From the People's Republic of China: Final Results and Partial Rescission of the Antidumping Duty Administrative Review; 2019–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that Qufu Xinyu Furniture Co., Ltd. (Qufu Xinyu) did not make sales of subject merchandise at less than normal value (NV) during the period of review (POR) October 9, 2019, through March 31, 2021; Shanghai Beautystar Cabinetry Co., Ltd. (Beautystar) is part of the People's Republic of China (China)-wide entity; and Jiang Su Rongxin Wood Industry Co., Ltd. (Rongxin Wood) is the successor-in-interest to Jiangsu Rongxin Cabinets Co., Ltd. (Rongxin Cabinets).

DATES: Applicable November 9, 2022.

FOR FURTHER INFORMATION CONTACT: Jacob Keller, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4849.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2022, Commerce published the *Preliminary Results* of the administrative review and invited interested parties to comment.[1] For a complete description of the events that occurred since Commerce published the *Preliminary Results, see* the Issues and Decision Memorandum.[2] On August 18, 2022, we extended the deadline for these final results to November 2, 2022.[3] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[4]

The products covered by this *Order* are wooden cabinets and vanities that are for permanent installation (including floor mounted, wall mounted, ceiling hung or by attachment of plumbing), and wooden components thereof. For full description of the scope of the *Order, see* the Issues and Decision Memorandum.

[1] *See Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China: Preliminary Results and Partial Recission of the Antidumping Duty Administrative Review; 2019–2021,* 87 FR 27090 (May 6, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum: Antidumping Duty Administrative Review ofn Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China; 2019–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Wooden Cabinets and Vanities and Components Thereof of From the People's Republic of China: Extension of Deadline for the Final Results of the Antidumping Duty Administrative Review; 2019–2021,'' dated August 18, 2022.

[4] *See Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China: Antidumping Duty Order,* 85 FR 22126 (April 21, 2020) (*Order*).

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is included as Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Separate Rates

Commerce determines that 15 companies, not individually examined, are eligible for separate rates in this administrative review.[5] The Act and Commerce's regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate rate respondents which Commerce did not examine individually in an administrative review. For the final results of this review, Commerce determined the estimated dumping margin for Qufu Xinyu to be zero. For the reasons explained in the Issues and Decision Memorandum, we are assigning this rate to the non-examined respondents which qualify for a separate rate in this review.[6]

China-Wide Entity

Commerce considers all other companies, listed in Appendix II of this notice, for which a review was requested, and which did not demonstrate separate rate eligibility, to be part of the China-wide entity.

Rescission of Administrative Review

As discussed in the Issues Decision Memorandum, Commerce continues to find that the sale made by Dalian Hualing Wood Co., Ltd. (Hualing) serving as the basis for administrative review is not a *bona fide* sale of subject merchandise.[7] Commerce reached this conclusion based on the totality of the record information surrounding Hualing's reported sale, including, but not limited to, the price and quantity of the sale, the timing of the sale, the resale price and profit, and other relevant factors such as the single sale made during the POR, the ''specialty'' nature of the product, and the likelihood of future sales.[8]

Because the non-*bona fide* sale was the only reported sale of subject merchandise during the POR, we find that Hauling had no reviewable transactions during this POR and is ineligible for an administrative review. Accordingly, we are rescinding this administrative review with respect to Hualing.

In the *Preliminary Results,* Commerce determined that Rongxin Wood is the successor-in-interest to Rongxin Cabinets.[9] No interested party commented on this issue, and we did not receive any information to contradict our preliminary finding. Therefore, we continue to find that Rongxin Wood is the successor-in-interest to Rongxin Cabinets. Effective the date of publication of the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to apply the antidumping duty cash deposit rate applicable to Rongxin Cabinets to entries of subject merchandise exported by Rongxin Wood. Based on Rongxin Wood's timely withdrawal of its request for a review, we are rescinding the review with respect to Rongxin Cabinets.[10]

Final Results of Administrative Review

Commerce determines that the following weighted-average dumping margin exists for the administrative review covering the period October 9, 2019, through March 31, 2021:

Exporter	Weighted-average dumping margin (percent)
Qufu Xinyu Furniture Co., Ltd	0.00
Non-Selected Companies Under Review Receiving a Separate Rate[11]	0.00

Disclosure

Normally, Commerce discloses to the parties in a proceeding the calculations performed in connection with a final results of review in accordance with 19 CFR 351.224(b). However, because Commerce made no adjustments to the margin calculation methodology used in the *Preliminary Results,* there are no calculations to disclose for the final results of review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For Qufu Xinyu, and the respondents which were not selected for individual examination in this administrative review, and which qualified for a separate rate, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For the companies listed in Appendix II, identified as part of the China-wide entity, we will instruct CBP to apply an antidumping duty assessment rate of 251.64 percent (the rate applicable to the China-wide entity) to all entries of subject merchandise during the POR exported by those companies.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be the rate established in these final results of review for each exporter as listed above; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese

[5] *See* Appendix II.

[6] *See* Issues and Decision Memorandum at Comment 3.

[7] *Id.* at Comment 2.

[8] *Id.*

[9] *See Preliminary Results* PDM at 6–8.

[10] *See* Rongxin Wood's Letter, ''Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China—Withdrawal of Request for Administrative Review,'' dated September 8, 2021.

[11] *See* Appendix II.

[12] *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order,* 85 FR 22126 (April 21, 2020) (*Order*).

exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which 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.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of review in accordance with sections 751(a)(l), 751(a)(2)(B), and 777(i) of the Act.

Dated: November 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

Companies Considered To Be Part of the China-Wide Entity

1. Deqing Meisheng Import and Export Co., Ltd.
2. Fuzhou Pyrashine Trading Co., Ltd.
3. Jiang Su Rongxin Import and Export Co., Ltd.
4. Linshu Meibang Furniture Co., Ltd.
5. Shanghai Beautystar Cabinetry Co., Ltd.
6. Shanghai Zifeng Industries Development Co., Ltd.
7. ZBOM Cabinets Co., Ltd.
8. Zhongshan KM Cabinetry Co., Ltd.

Non-Selected Companies Under Review Receiving a Separate Rate

1. Dalian Meisen Woodworking Co., Ltd.
2. Fujian Dushi Wooden Industry Co., Ltd.
3. Guangzhou Nuolande Import and Export Co., Ltd.
4. Jiangsu Xiangsheng Bedtime Furniture Co., Ltd.
5. KM Cabinetry Co., Ltd.
6. Linyi Bomei Furniture Co., Ltd.
7. Nantong Aershin Cabinets Co., Ltd.
8. Senke Manufacturing Company
9. Shandong Longsen Woods Co., Ltd.
10. Shenzhen Pengchengzhirong Trade Co., Ltd.
11. Shouguang Fushi Wood Co., Ltd.
12. Suzhou Siemo Wood Import & Export Co., Ltd.
13. Taishan Oversea Trading Company Ltd.
14. Zhangzhou OCA Furniture Co., Ltd.
15. Zhoushan For-strong Wood Co., Ltd.

[FR Doc. 2022–24465 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC504]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of virtual meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Bering Sea and Aleutian Islands (BSAI) Crab Plan Team (CPT) will meet virtually on November 29, 2022.

DATES: The meeting will be held on Tuesday, November 29, 2022, from 9 a.m. to 12 p.m., Alaska Time.

ADDRESSES: The meeting will be a virtual meeting. Participants can join online through the link at: *https://meetings.npfmc.org/Meeting/Details/2962.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave. Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Sarah Rheinsmith, Council staff; phone: (907) 271–2809; email: *sarah.rheinsmith@noaa.gov.* For technical support, please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, November 29, 2022

The agenda will include a summary of the snow crab rebuilding plan initial review analysis, and Plan Team discussion. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2962* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2962.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2962.*

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

Dated: November 4, 2022.

Rey Israel Marquez,

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

[FR Doc. 2022–24458 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC488]

Magnuson-Stevens Fishery Conservation and Management Act; Atlantic Coastal Fisheries Cooperative Management Act Provisions

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

ACTION: Notice; public meetings and request for comments.

SUMMARY: NMFS will hold one virtual hearing and accept written comment regarding an action to implement Presidential Proclamations 9496 and 10287, establishing the Northeast Canyons and Seamounts Marine National Monument. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notice to provide interested parties the opportunity to comment on this upcoming fishery management plan amendment.

DATES: The virtual hearing will be held on November 16, 2022. See **SUPPLEMENTARY INFORMATION** for details, including the dates and times for the hearing. Written comments must be received on or before November 30, 2022.

ADDRESSES: You may submit written comments by the following method:

- *Email: laura.deighan@noaa.gov.* Include in the subject line ''Comments on Monument Amendment.''

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, 978–281–9184, *laura.deighan@noaa.gov.*

SUPPLEMENTARY INFORMATION: On September 15, 2016, the Northeast Canyons and Seamounts Marine National Monument was designated for waters of the North Atlantic (Presidential Proclamation 9496; 81 FR 65161, September 21, 2016). This Proclamation prohibited commercial fishing within the monument, with a 7-year exemption for the American lobster and Atlantic deep-sea red crab fisheries. In June 2020, monument prohibitions were revised via Proclamation 10049 (85 FR 35793, June 11, 2020) removing commercial fishing from the list of prohibited activities set forth in the 2016 Proclamation. Most recently, in October 2021, Proclamation 10287 (86 FR 57349, October 15, 2021) again modified the activities allowed within the monument. This 2021 proclamation restored commercial fishing to the list of prohibited activities, providing ''for the prohibition of all commercial fishing in the monument, except for red crab and American lobster commercial fishing, which may be permitted until September 15, 2023.''

NOAA Fisheries will hold one virtual public hearing and accept written comments regarding an action intended to incorporate the monument area and commercial fishing prohibition into the region's fishery management plans and fishery regulations. A public hearing document with additional details can be found on the NOAA website at *https://www.fisheries.noaa.gov/event/public-hearing-development-northeast-canyons-and-seamounts-marine-national-monument-omnibus.* Information on the virtual hearing is below:

Wednesday, November 16, 2022, 3 p.m. ET. You can connect to the hearing using this website: *https://attendee.gotowebinar.com/register/2004798251740374797.*

Written comments will be accepted at the hearings or via the submission methods described above, by November 30, 2022.

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

Dated: November 3, 2022.

Kelly Denit,

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

[FR Doc. 2022–24409 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC534]

Marine Mammals; File No. 26727

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Aaron Lynton, 986 Kupulau Drive, Kihei, HI 96853, has applied in due form for a permit to conduct commercial and educational photography on humpback whales (*Megaptera novaeangliae*).

DATES: Written, telefaxed, or email comments must be received on or before December 9, 2022.

ADDRESSES: These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26727 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film humpback whales in the waters off the coast of Maui for a documentary on their social interactions and behaviors in Hawaiian waters. The applicant would film and observe up to 400 adult/juvenile humpback whales and 75 humpback whale calves annually topside from a vessel, using an unmanned aircraft system (UAS), or underwater by diving. Up to 60 Hawaiian spinner dolphins (*Stenella longirostris*), 300 short-finned pilot whales (*Globicephala macrorhynchus*), and 120 bottlenose dolphins (*Tursiops truncatus*) annually may be harassed and opportunistically filmed if in the vicinity of the target species. The permit would be valid through May 2024.

It has come to the agency's attention that the 2016 interim final humpback approach rule (50 CFR 216.19; 81 FR 62010, September 8, 2016) does not explicitly exempt permits issued under section 104(c)(6) of the MMPA from its prohibitions. It is not the agency's intent to preclude the issuance of permits or authorizations consistent with the requirements of the MMPA. We interpret the rule to allow issuance of these permits. Consistent with this interpretation, it has been our practice to continue to issue section 104(c)(6) permits that are in compliance with the MMPA's requirements and our review procedures. However, to eliminate any potential ambiguity, we intend to revise the rule to explicitly clarify that photography permits issued under section 104(c)(6) of the MMPA are exempt from the prohibitions on approach.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 4, 2022.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–24481 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC521]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Hawaii Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP) to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The meeting will be held on Tuesday, November 22, 2022, from 9 a.m. to 1 p.m. (Hawaii Standard Time). For agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held by web conference via Webex. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public Comment periods will be provided in the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the Hawaii Archipelago AP meeting

Tuesday, November 22, 2022, 9 a.m.–1 p.m. (Hawaii Standard Time)

1. Welcome and Introductions
2. Review of Last AP Meeting and Recommendations
3. Council Issues
   - A. Review of Paper Interring Spillover Benefits of the Papahanaumokuakea Marine National Monument
   - B. Proposed Northwest Hawaiian Islands Fishing Regulations
   - C. Catch Limit for the North Pacific Striped Marlin
   - D. Final Supplemental Biological Opinion (BiOp) and Status of the Full BiOp for the Hawaii Deep-set Longline Fishery
4. Public Comment
5. Discussion and Recommendations
6. Other Business

Special Accommodations

The meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: November 4, 2022.

Rey Israel Marquez,

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

[FR Doc. 2022–24459 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC515]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public hybrid meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a public hybrid meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The SSC public hybrid meeting will be held on November 29, 30 and December 1, 2022, from 10 a.m. to 5 p.m., Atlantic Standard Time (AST).

ADDRESSES: The SSC public hybrid meeting will be held at the Courtyard by Marriott Isla Verde Beach Resort, 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico 00979. You may join the SSC public hybrid meeting via Zoom by entering the following address: *https://us02web.zoom.us/j/81086075177?pwd=TlBLb0NjWmZaR2h0b2NEbmpOTWtiQT09.*

Meeting ID: 810 8607 5177
Passcode: 546850
One tap mobile
+19399450244, ,87345855856#,,,, *793249# Puerto Rico
+17879451488, ,87345855856#,,,, *793249# Puerto Rico
Dial by your location
+1 939 945 0244 Puerto Rico
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 312 626 6799 US (Chicago)
+1 346 248 7799 US (Houston)
+1 646 558 8656 US (New York)
+1 669 900 9128 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 301 715 8592 US (Washington DC)
Meeting ID: 810 8607 5177
Passcode: 546850

Find your local number: *https://us02web.zoom.us/u/kQvrOfR9i.*

In case there are problems and we cannot reconnect via Zoom, the meeting will continue via GoToMeeting. You may join from a computer, tablet or smartphone by entering the following address: *https://meet.goto.com/934508733.*

You can also dial in using your phone.

United States: +1 (646) 749–3122
Access Code: 934–508–733

Join from a video-conferencing room or system.

Dial in or type: 67.217.95.2 or *inroomlink.goto.com.*

Meeting ID: 934 508 733.

Or dial directly: 934508733@67.217.95.2 or 67.217.95.2##934508733.

Get the app now and be ready when the first meeting starts: *https://meet.goto.com/install.*

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

November 29, 2022

10 a.m.–10:15 a.m.

—Call to Order

—Roll Call
—Adoption of Agenda
—Approval of Verbatim Transcriptions

10:15 a.m.–12:30 p.m.

—Finalize SEDAR 80 Queen Triggerfish for Puerto Rico—Southeast Fishery Science Center (SEFSC)

12:30 p.m.–1:30 p.m.

—Lunch

1:30 p.m.–3 p.m.

—SEDAR 57 Spiny Lobster Update Assessment—SEFSC
—Puerto Rico, St. Thomas/St. John, St. Croix

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–5 p.m.

—SEDAR 57 Spiny Lobster Update Assessment (continued)—SEFSC
—Puerto Rico, St. Thomas/St. John, St. Croix
—SSC Recommendations to CFMC

November 30, 2022

10 a.m.–12:30 p.m.

—Review SEDAR 80 Queen Triggerfish St. Thomas/St. John
—Review SEDAR 80 Queen Triggerfish St. Croix
—SEDAR 80 Queen Triggerfish (continued)
—Review Base Models
—SSC Recommendations for Any Additional Work
—SSC Guidance for Additional Analysis Including Projections
—SSC Recommendations to Finalize SEDAR 80 Queen Triggerfish Assessments
—SSC Final Discussion on SEDAR 80 Queen Triggerfish Assessments
—SSC Recommendations to CFMC

12:30 p.m.–1:30 p.m.

—Lunch

1 p.m.–3 p.m.

—National SSC (August 15–17, 2022) Update—Richard Appeldoorn, J.J. Cruz Motta, Tarsila Seara
—Case Study 8: Multivariate Approaches for Ecosystem Based Fishery Management (EBFM) Implementation in the U.S. Caribbean

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–5 p.m.

—Marine Economy Measurements for the U.S. Caribbean—Expansion of NOAA's Economics National Ocean Watch (ENOW) Database—Kate Quigley
—Island-Based Fishery Management Plans and Amendments Update—María López-Mercer, SERO/NOAA Fisheries
—CFMC Research Priorities

December 1, 2022

10 a.m.–5 p.m.

—CFMC Research Priorities (continued)
—Recommendations to CFMC

12 p.m.–1 p.m.

—Lunch
—CFMC Research Priorities (continued)
—Recommendations to CFMC
—Other Business
—Adjourn

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The SSC three-day public hybrid meeting will begin on November 29, 2022, at 10 a.m. AST, and will end on December 1, 2022, at 5 p.m. AST. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair. In addition, the meeting may be completed prior to the date established in this notice.

Special Accommodations

For any additional information on this public hybrid meeting, please contact Dr. Graciela García-Moliner, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 403–8337.

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

Dated: November 4, 2022.

Rey Israel Marquez,

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

[FR Doc. 2022–24456 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC512]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC's) Summer Flounder, Scup, and Black Sea Bass Advisory Panel will hold a public meeting jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel.

DATES: The meeting will be held on Wednesday, November 30, 2022, from 1 p.m. to 5 p.m., EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar at *www.mafmc.org* prior to the meeting.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will meet jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup and Black Sea Bass Advisory Panel to discuss 2023 recreational management measures for each species. The purpose of this meeting is to review the Monitoring Committee's recommendations for 2023 recreational management for all three species and to provide Advisory Panel input on 2023 recreational management measures.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: November 4, 2022.

Rey Israel Marquez,

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

[FR Doc. 2022–24460 Filed 11–8–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–21–000.

Applicants: Wisconsin Public Service Corporation, Madison Gas and Electric Company, Red Barn Energy, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Wisconsin Public Service Corporation, et al.
Filed Date: 11/2/22.
Accession Number: 20221102–5156.
Comment Date: 5 p.m. ET 12/19/22.
Docket Numbers: EC23–22–000.
Applicants: Patriot Hydro, LLC, Gauley River Power Partners, LLC, Central Rivers Power Super Holdings Holdco, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Central Rivers Power Super Holdings Holdco, LLC, et al.
Filed Date: 11/2/22.
Accession Number: 20221102–5191.
Comment Date: 5 p.m. ET 11/23/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1852–071; ER10–1890–024; ER10–1951–048; ER10–1962–024; ER11–2160–024; ER11–3417–014; ER11–4462–070; ER11–4677–023; ER11–4678–024; ER12–199–021; ER12–631–025; ER12–676–019; ER12–2444–022; ER13–1991–025; ER13–1992–025; ER13–2112–019; ER15–1016–016; ER15–1375–018; ER15–1418–018; ER15–1883–018; ER15–2243–014; ER15–2477–017; ER16–90–017; ER16–91–017; ER16–632–017; ER16–2443–013; ER17–582–016; ER17–583–016; ER17–838–045; ER17–2340–014; ER19–1076–009; ER20–819–011; ER20–2695–009; ER21–1580–006; ER21–1813–008; ER21–1814–008; ER21–2294–006; ER22–1370–005; ER22–2552–002; ER22–2824–002; ER21–2304–006.
Applicants: Arlington Solar, LLC, Yellow Pine Solar, LLC, Java Solar, LLC, Sunlight Storage, LLC, Arlington Energy Center II, LLC, Yellow Pine Energy Center II, LLC, Yellow Pine Energy Center I, LLC, Sky River Wind, LLC, Mohave County Wind Farm LLC ,Blythe Solar III, LLC, Windstar Energy, LLC, Golden Hills North Wind, LLC, NextEra Energy Marketing, LLC, Whitney Point Solar, LLC, Westside Solar, LLC, NextEra Blythe Solar Energy Center, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Golden Hills Interconnection, LLC, Golden Hills Wind, LLC, Silver State Solar Power South, LLC, Adelanto Solar, LLC, Adelanto Solar II, LLC, McCoy Solar, LLC, Shafter Solar, LLC, Genesis Solar, LLC, Desert Sunlight 300, LLC, Desert Sunlight 250, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, Windpower Partners 1993, LLC, Coram California Development, L.P., Vasco Winds, LLC, NextEra Energy Montezuma II Wind, LLC, NEPM II, LLC, Alta Wind VIII, LLC, FPL Energy Montezuma Wind, LLC, High Winds, LLC, NextEra Energy Services Massachusetts, LLC, FPL Energy Green Power Wind, LLC, Florida Power & Light Company.
Description: Notice of Change in Status of Florida Power & Light Company, et al.
Filed Date: 10/31/22.
Accession Number: 20221031–5403.
Comment Date: 5 p.m. ET 11/21/22.
Docket Numbers: ER23–350–000.
Applicants: Morongo Transmission LLC.
Description: § 205(d) Rate Filing: Annual TRBAA Filing to be effective 1/1/2023.
Filed Date: 11/2/22.
Accession Number: 20221102–5122.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–351–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2022–11–02_SA, 3425 Entergy Arkansas-West Memphis Solar 1st Rev GIA (J934) to be effective 10/20/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5134.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–352–000.
Applicants: Blue Sky West, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5146.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–353–000.
Applicants: Evergreen Wind Power II, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5148.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–354–000.
Applicants: Hancock Wind, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5149.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–355–000.
Applicants: Mulberry Farm, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5152.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–356–000.
Applicants: Selmer Farm, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5154.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–357–000.
Applicants: Broad River Energy LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5159.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–358–000.
Applicants: KMC Thermo, LLC.
Description: § 205(d) Rate Filing: Tariff Revisions to be effective 11/3/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5160.
Comment Date: 5 p.m. ET 11/23/22.
Docket Numbers: ER23–359–000.
Applicants: Townsite Solar, LLC.
Description: Townsite Solar, LLC submits 2022 WECC Soft Price Cap Justification Filing.
Filed Date: 10/31/22.
Accession Number: 20221031–5407.
Comment Date: 5 p.m. ET 11/21/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 3, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24440 Filed 11–8–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22–10–000]

Reliability Technical Conference; Third Supplemental Notice of Technical Conference

As announced in the Notices of Technical Conference issued in this

proceeding on August 23, 2022, October 4, 2022, and October 28, 2022, the Federal Energy Regulatory Commission (Commission) will convene its annual Commissioner-led Reliability Technical Conference in the above-referenced proceeding on Thursday, November 10, 2022, from approximately 12:00 p.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 policy issues related to the reliability and security of the Bulk-Power System.

The conference will be open for the public to attend, and there is no fee for attendance. Information about this technical conference can be found on the Events Calendar on the Commission's website, *www.ferc.gov.* 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 Lodie White at *Lodie.White@ferc.gov* or (202) 502–8453. For information related to logistics, please contact Sarah McKinley at *Sarah.Mckinley@ferc.gov* or (202) 502–8368.

Dated: November 3, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24441 Filed 11–8–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–466–000]

WBI Energy Transmission, Inc.; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Wahpeton Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Wahpeton Expansion Project, proposed by WBI Energy Transmission, Inc. (WBI Energy) in the above-referenced docket. WBI Energy requests authorization to construct and operate the Wahpeton Expansion Project, which would provide an incremental 20,600 equivalent dekatherms per day of firm natural gas transportation capacity from WBI Energy's existing Mapleton Compressor Station to the proposed Montana Dakota Utilities (MDU)-Kindred and MDU-Wahpeton Border Stations to provide natural gas services to the communities of Kindred and Wahpeton, North Dakota.

The draft EIS assesses the potential environmental effects of the construction and operation of the Wahpeton Expansion Project in accordance with the requirements of the National Environmental Policy Act (NEPA). Commission staff concludes that approval of the proposed project, with the mitigation measures recommended in the EIS, would result in some adverse environmental impacts. Most of these impacts would be temporary and occur during construction (*e.g.,* impacts on wetlands, land use, traffic, and noise). With the exception of climate change impacts that are not characterized in the EIS as significant or insignificant, Commission staff conclude that project effects would not be significant. As part of the analysis, Commission staff developed specific mitigation measures (included in the draft EIS as recommendations). Staff recommend that these mitigation measures be attached as conditions to any authorization issued by the Commission.

The Wild Rice River Route Alternative—Milepost (MP) 55 would affect landowners that have not been part of the FERC's environmental scoping process, as further discussed on page 4. Therefore, by this letter we are notifying these parties of our evaluation and requesting comments about this route alternative presented in section 3.3.1 of the draft EIS.

The draft EIS addresses the potential environmental effects of the construction and operation of the following project facilities, in Cass and Richland Counties, North Dakota:

- a new 60.5-mile-long, 12-inch-diameter natural gas pipeline;
- minor modifications to WBI Energy's existing Mapleton Compressor Station;
- a new MDU-Wahpeton Border Station;
- a new MDU-Kindred Border Station;
- seven new block valve settings;
- four new pig launcher/receiver settings; and
- ancillary facilities.

The Commission mailed a copy of the *Notice of Availability* of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the draft EIS may be accessed by using the eLibrary link on FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP22–466). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The draft EIS is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the draft EIS may do so. Your comments should focus on draft EIS's disclosure and discussion of potential environmental effects, measures to avoid or lessen environmental impacts, and the completeness of the submitted alternatives, information and analyses. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on December 27, 2022.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

1. You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC

Online. This is an easy method for submitting brief, text-only comments on a project;

2. You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With filing, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

3. You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–466–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

4. In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment sessions its staff will conduct in the project area to receive comments on the draft EIS, scheduled as follows:

Date and time	Location
Tuesday, November 29, 2022, 5:00 p.m.–7:00 p.m	Wahpeton City Hall, 1900 4th Street N, Wahpeton, ND 58075, (701) 591–2110.
Wednesday, November 30, 2022, 5:00 p.m.–7:00 p.m	Kindred High School, 225 Dakota Street, Kindred, ND 58051, (701) 428–3177.

The primary goal of these comment sessions is to have you identify the specific environmental issues and concerns with the draft EIS. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

Each comment session is scheduled from 5:00 p.m. to 7:00 p.m. Central Standard Time. You may arrive at any time after 5:00 p.m. There will not be a formal presentation by Commission staff when the session opens. Comments will be taken until 7:00 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your verbal comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see page 2 for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a comment session.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or call (202) 502–8371.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.* Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Route Alternative

As indicated on page 1, some landowners are receiving this draft EIS because their property has been identified as potentially being affected by the Wild Rice River Route Alternative—MP 55, which is recommended by FERC staff to avoid or lessen environmental impacts along WBI Energy's proposed pipeline route. Section 3.3.1 of the draft EIS contains our analysis and discussion of this alternative. The Commission staff wants to ensure that all potentially affected landowners have the opportunity to participate in the environmental review process, thus staff is soliciting comments to assist with the environmental analysis of this route alternative, which will be presented in the final EIS.

Questions?

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: November 3, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24442 Filed 11–8–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP23–53–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Tariff Amendment: 11.3.22 Negotiated Rate—Shell Energy North America (U.S.), L.P. R–2170–22 to be effective 11/1/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5059.

Comment Date: 5 p.m. ET 11/10/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

Filings Instituting Proceedings

Docket Numbers: PR23–5–000.

Applicants: Black Hills/Kansas Gas Utility Company, LLC.

Description: § 284.123 Rate Filing: BHKG Revised SOC and Statement of Rates to be effective 11/1/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5038.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: RP23–163–000.

Applicants: Rover Pipeline LLC.

Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements on 11–2–2022 to be effective 11/2/2022.

Filed Date: 11/2/22.

Accession Number: 20221102–5097.

Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–164–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Compliance filing: Annual Operational Flow Order Report 2022 to be effective N/A.

Filed Date: 11/3/22.

Accession Number: 20221103–5000.

Comment Date: 5 p.m. ET 11/15/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:

http://www.ferc.gov/docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 3, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24443 Filed 11–8–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–256–015; ER17–242–014; ER17–243–014; ER17–245–014; ER17–652–014.

Applicants: Lightstone Marketing LLC, Waterford Power, LLC, Lawrenceburg Power, LLC, Gavin Power, LLC, Darby Power, LLC.

Description: Notice of Non-Material Change in Status of Darby Power, LLC, et al.

Filed Date: 11/2/22.

Accession Number: 20221102–5197.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER22–2818–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to ISA, SA No. 6594; Queue Nos. AE2–334 & AG1–103 Correction to Filing to be effective 8/9/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5088.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–360–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original UCSA, Service Agreement No. 6676; Queue Position J799 to be effective 10/5/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5034.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–361–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6675; Queue No. AE1–225 to be effective 10/4/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5039.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–362–000.

Applicants: Avista Corporation.

Description: Compliance Filing for Order No. 676–J of Avista Corporation.

Filed Date: 11/2/22.

Accession Number: 20221102–5194.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–363–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised Service Agreement No. 5814, Queue No. AD1–041/AE1–190/AE1–191 to be effective 10/5/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5040.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–364–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to Sch. 12-Appx A: October 2022 RTEP, 30-Day Comment Period Requested to be effective 2/1/2023.

Filed Date: 11/3/22.

Accession Number: 20221103–5064.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–365–000.

Applicants: Calhoun Power Company, LLC.

Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff to be effective 11/4/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5078.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–366–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ISA, SA No. 2782; Queue No. W3–002 to be effective 2/2/2011.

Filed Date: 11/3/22.

Accession Number: 20221103–5083.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–367–000.

Applicants: OnPoint Energy Illinois, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application and Request for Expedited Action to be effective 11/4/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5093.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–368–000.

Applicants: OnPoint Energy Ohio LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application and Request for Expedited Action to be effective 11/4/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5098.

Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–369–000.

Applicants: OnPoint Energy Pennsylvania, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application and Request for Expedited Action to be effective 11/4/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5099.

Comment Date: 5 p.m. ET 11/25/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings

must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 3, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24439 Filed 11–8–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0757, FRL–10262–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (EPA ICR Number 1572.13, OMB Control Number 2050–0050) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2022. Public comments were previously requested via the **Federal Register** on March 24, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 9, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2018–0757, online using *www.regulations.gov* (our preferred method), or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0453; email address: *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov.* Materials can also be viewed at the Reading Room located at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays). The telephone number for the Docket Center is 202–566–1744.

Abstract: This ICR provides a discussion of all of the information collection requirements associated with specific unit standards applicable to owners and operators of facilities that treat, store, or dispose of hazardous wastes as defined by 40 CFR part 261. It includes a detailed description of the data items and respondent activities associated with each requirement and with each hazardous waste management unit at a facility. The specific units and processes included in this ICR are: Tank systems, Surface impoundments, Waste piles, Land treatment, Landfills, Incinerators, Thermal treatment, Chemical, physical, and biological treatment, Miscellaneous (subpart X), Drip pads, Process vents, Equipment leaks, Containment buildings, and Recovery/recycling.

With each information collection covered in this ICR, the EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste treatment, storage, and disposal facilities, to protect human health and the environment. Without the information collection, the agency cannot assure that the facilities are designed and operated properly.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are private sector and State, Local, or Tribal governments.

Respondent's obligation to respond: Mandatory (40 CFR 261, 264, 265, and 266).

Estimated number of respondents: 919.

Frequency of response: On occasion.

Total estimated burden: 377,427 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $23,872,105 (per year), which includes $1,733,951 annualized capital or operation & maintenance costs.

Changes in the estimates: There is an increase of 21,122 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an increase of the Subpart AA and BB units.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–24454 Filed 11–8–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1176 and OMB 3060–1177; FR ID 113150]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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 January 9, 2023. 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: 3060–1176.

Type of Review: Extension of a currently approved collection.

Title: MVPD Notice, Section 73.3800.

Form Number: N/A.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 10 respondents and 10 responses.

Estimated Time per Response: 2 to 4 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 1, 4(i) and (j), 7, 154, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 19 hours.

Total Annual Cost: $600.

Needs and Uses: On March 23, 2017, the Commission adopted the *Report and Order,* Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29. This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations. Channel sharing stations also must notify MVPDs of the fact that stations will be terminating operations on one channel to share another station's channel.

OMB Control Number: 3060–1177.

Type of Review: Extension of a currently approved collection.

Title: Section 74.800, Channel Sharing Agreements.

Form Number: N/A.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

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

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits, The statutory authority for this collection is contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Cost: $12,000.

Needs and Uses: Full Power, Class A television and low power television stations and TV translator stations that agree to share a single television channel are required to reduce their Channel Sharing Agreement (CSA) to writing and submit a copy to the Commission for review. There is no specified format for the CSA but it must contain certain provision set forth in the rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24450 Filed 11–8–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0185, OMB 3060–0291, OMB 3060–0767 and OMB 3060–0737; FR ID 113148]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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 January 9, 2023. 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: 3060–0185.

Title: Section 73.3613, Availability of Contracts.

Form Number: N/A.

Respondents: Business or other for-profit entities and Not-for-profit institutions.

Number of Respondents and Responses: 2,400 respondents; 2,400 responses.

Estimated Time per Response: 0.25 to 0.5 hours.

Frequency of Response: On-occasion reporting requirement, Recordkeeping requirement, Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i) and 303 the Communications Act of 1934, as amended.

Total Annual Burden: 975 hours.

Total Annual Cost: $135,000.

Needs and Uses: The information collection requirements included under OMB Control Number 3060–0185 require that commercial and noncommercial AM, FM, TV, and international broadcast stations make station contracts and other documents available to the FCC as set forth in 47 CFR 73.3613.

OMB Control Number: 3060–0291.

Title: Section 90.477(a), (b)(2), (d)(2), and (d)(3), Interconnected Systems.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 527 respondents; 527 responses.

Estimated Time per Response: .25 hours–2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping 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. 332(a).

Total Annual Burden: 176 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements which govern interconnection of private land mobile radio service stations with the public switched telephone network are contained in 47 CFR 90.477(a) which requires that licensees of interconnected land stations maintain as part of their station records a detailed description of how interconnection is accomplished. The information collection requirements contained in 47 CFR 90.477(b)(2) and (d)(2) require that at least one licensee participating in any cost sharing arrangement for telephone service must maintain cost sharing records, the costs must be distributed at least once a year, and a report of the distribution must be placed in the licensee's station records and made available to participants in the sharing arrangement and the Commission upon request. The information collection requirements contained in 47 CFR 90.477(d)(3) require that licensees in the Industrial/Business Pool and those licensees who establish eligibility pursuant to 90.20(a)(2), other than persons or organizations charged with specific fire protection activities, persons or organizations charged with specific forestry-conservation activities, or medical emergency systems in the 450–470 MHz band, and who seek to connect within 120 km (75 miles) of 25 cities specified in 90.477(d)(3), must obtain the consent of all co-channel licensees located both within 120 km of the center of the city, and with 120 km of the interconnected base station transmitter. Consensual agreements must specifically state the terms agreed upon and a statement must be submitted to the Commission indicating that all co-channel licensees have consented to the use of interconnection.

In a December 1998 Report and Order in WT Docket Nos. 98–20 and 96–188, the Commission consolidated, revised and streamlined the Commission's rules governing the licensing application procedures for radio services licensed by the Commission's Wireless Telecommunications Bureau in order to fully implement the Universal Licensing System (ULS). As a result of the ULS rule conversions in connection with this information collection requirements contained in 47 CFR 90.477(a), interconnected systems now file all information (100 percent). Section 90.477(d)(3), interconnected systems were changed to reflect NAD83 coordinates.

OMB Control Number: 3060–0767.

Title: Sections 1.2110, 1.2111 and 1.2112, Auction and Licensing Disclosures—Ownership and Designated Entity Status.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit, Not-for-profit institutions, and State, local or tribal government.

Number of Respondents: 310 respondents; 310 responses.

Estimated Time per Response: 0.50 hours to 2 hours.

Frequency of Response: On occasion reporting requirement, Third party disclosure requirement, and Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 154(i) and 309(j) of the Communications Act, as amended, 47 U.S.C. 4(i) and 309(j).

Total Annual Burden: 470 hours.

Total Annual Costs: $31,500.

Needs and Uses: A request for extension of this information collection (no change in requirements) will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from OMB. Beginning first on May 5, 1997, OMB approved under OMB 3060–0767 the Commission's collections of information pursuant to sections 1.2110, 1.2111, and 1.2112 of the Commission's rules, 47 CFR 1.2110, 1.2111, and 1.2112, and their predecessors, regarding ownership and designated entity status of parties involved with Commission licenses. The Commission collects this information in several contexts, including when determining the eligibility of applicants to participate in Commission auctions (including eligibility to claim designated entity benefits), the eligibility of parties to hold a Commission license/authorization (including eligibility for designated entity benefits), the eligibility of parties to whom licenses/authorizations are being assigned or transferred, and the repayment by license/authorization holders of the amount of bidding credits received in Commission auctions to avoid unjust enrichment. Applicants and licensees/authorization holders claiming eligibility for designated entity status are subject to audits and a record-keeping requirement regarding FCC-licensed service concerning such claims of eligibility, to confirm that their representations are, and remain, accurate. The collection of this information will enable the Commission to determine whether applicants are qualified to bid on and hold Commission licenses/authorizations and, if applicable, to receive designated entity benefits, and is designed to ensure the fairness of the auction, licensing, and license/authorization assignment and transfer processes. The information collected will be reviewed and, if warranted, referred to the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice for investigation. OMB has approved separately the

routine collections of information pursuant to these Commission rules in applications to participate in Commission auctions) under OMB 3060–0600 (FCC Form 175), in Commission licensing applications under OMB 3060–0798 (FCC Form 601), and in assignment/transfer of control applications under OMB 3060–0800 (FCC Form 603). On occasion, the Commission may collect information from auction applicants, winning bidders and others applying for licenses/authorizations, and license/authorization holders pursuant to these rules under this information collection to clarify information provided in these application forms or in circumstances to which the standard forms may not directly apply.

OMB Control Number: 3060–0737.

Title: Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 4.5 hours.

Frequency of Response: Annual and on occasion reporting requirement; Third party disclosure.

Obligation to Respond: Voluntary.

Total Annual Burden: 4,500 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 64.1501(b) of the Commission's rules defines a presubscription or comparable arrangement as a contractual agreement in which an information service provider makes specified disclosures to consumers when offering ''presubscribed'' information services. The disclosures are intended to ensure that consumers receive information regarding the terms and conditions associated with these services before they enter into contracts to subscribe to them.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24449 Filed 11–8–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1211; FR ID 113149]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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 January 9, 2023. 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: 3060–1211.

Title: Sections 96.17; 96.21; 96.23; 96.25; 96.33; 96.35; 96.39; 96.41; 96.43; 96.45; 96.51; 96.57; 96.59; 96.61; 96.63; 96.67, Commercial Operations in the 3550–3650 MHz Band.

Form Number: N/A.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents: 110,782 respondents; 226,099 responses.

Estimated Time per Response: .25 to 1 hour.

Frequency of Response: One-time and on occasion reporting requirements; other reporting requirements—as-needed basis for equipment safety certification that is no longer in use, and consistently (likely daily) responses automated via the device.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for, these collections are contained in 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934.

Total Annual Burden: 64,561 hours.

Total Annual Cost: $13,213,975.

Needs and Uses: The FCC adopted an Order on Reconsideration and Second Report and Order, FCC 16–55, that amends rules established in the First Report and Order, FCC 15–47, for commercial use of 150 megahertz in the 3550–3700 MHz (3.5 GHz) band and a new Citizens Broadband Radio Service, on April 28, 2016, published at 81 FR 49023 (July 26, 2016). The rule changes and information requirements contained in the First Report and Order are also approved under this Office of Management and Budget (OMB) control number and have not changed since they were last approved by OMB.

The Commission also received approval from OMB for the information collection requirements contained in FCC 16–55. The amendments contained in the Second Report and Order create additional capacity for wireless broadband by adopting a new approach to spectrum management to facilitate more intensive spectrum sharing between commercial and federal users and among multiple tiers of commercial users. The Spectrum Access System (SAS) will use the information to authorize and coordinate spectrum use for Citizen Broadband Radio Service Devices (CBSDs). The Commission will use the information to coordinate among the spectrum tiers and determine Protection Areas for Priority Access Licensees (PALs).

The following is a description of the information collection requirements for is approved under this collection:

Section 96.25(c)(1)(i) requires PALs to inform the SAS if a CBSD is no longer in use.

Section 96.25(c)(2)(i) creates a default protection contour for any CBSD at the outer limit of the PAL Protection Area, but allows a PAL to self-report a contour smaller than that established by the SAS. These rules which contain information collection requirements are designed to provide for flexible use of this spectrum, while managing three tiers of users in the band, and create a low-cost entry point for a wide array of users. The rules will encourage innovation and investment in mobile broadband use in this spectrum while protecting incumbent users. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24448 Filed 11–8–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 22–352; FCC 22–80; FR ID 112394]

Expanding Use of the 12.7–13.25 GHz Band for Mobile Broadband or Other Expanded Use

AGENCY: Federal Communications Commission.

ACTION: Notice; extension of temporary application freeze.

SUMMARY: In this document, the Federal Communications Commission (Commission) extends the existing, 180-day freeze on filing certain applications pending the outcome of new proceeding, GN Docket No. 22–352.

DATES: The temporary, 180-day, application freeze was extended on October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Simon Banyai, Broadband Division, Wireless Telecommunications Bureau, (202) 418–1443 or *simon.banyai@fcc.gov*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in GN Docket No. 22–352, FCC 22–80, adopted on October 27, 2022, and released on October 28, 2022. The full text of this document is available on FCC's website at *https://www.fcc.gov/document/fcc-examine-127-ghz-band-next-gen-wireless-0.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Background

On October 28, 2022, the Commission released a Notice of Inquiry and Order, GN Docket No. 22–352, *Expanding Use of the 12.7–13.25 GHz Band for Mobile Broadband or Other Expanded Use* (FCC 22–80). In the Order portion of this item, the Commission noted that on September 19, 2022, the International, Media, Public Safety and Homeland Security, and Wireless Telecommunications Bureaus (Bureaus) announced a temporary, 180-day, freeze, effective as of September 19, 2022, on filing new or modified applications for licenses in the 12.7 GHz band.[1] The purpose of this freeze was ''to preserve the current landscape of authorized operations in the 12.7 GHz band pending the Commission's consideration of actions that might encourage the larger and more effective use of radio in the public interest.'' [2] The Bureaus noted that ''[t]he Commission or the Bureaus may extend the freeze if doing so is deemed necessary to avoid undermining the purpose of the freeze.'' [3] In view of the Commission's adoption of the Notice of Inquiry, the accompanying Order extends the temporary freeze pending the outcome of GN Docket No. 22–352. The Bureaus retain jurisdiction to modify the freeze notwithstanding this order.

Ordering Clause

Accordingly, *it is ordered* that, pursuant to Sections 4(i), 301, 302(a), 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302(a), 303(e), 303(f), and 303(r), this Notice of Inquiry and Order *is adopted* and effective upon release.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24389 Filed 11–8–22; 8:45 am]

BILLING CODE 6712–01–P

[1] *See 180-Day Freeze On Applications for New Or Modified Authorizations for the 12.7–13.25 GHz Band,* Public Notice, DA 22–974 (IB, PSHSB, MB, and WTB Sept. 19, 2022) (*Freeze Public Notice*), 87 FR 63494 (Oct. 19, 2022).

[2] *Freeze Public Notice* at 1.

[3] *Freeze Public Notice* at 1–2.

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201394.

Agreement Name: Transfar/SeaLead Space Charter Agreement.

Parties: SeaLead Shipping DMCC; Transfar Shipping Pte. Ltd.

Filing Party: Neal Mayer, Hoppel, Mayer & Coleman.

Synopsis: The agreement authorizes Transfar to sell slots to SeaLead in the trade between China and the U.S. West Coast.

Proposed Effective Date: 11/3/2022.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/71502.

Dated: November 4, 2022.

JoAnne O'Bryant,

Program Analyst.

[FR Doc. 2022–24464 Filed 11–8–22; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the

Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 9, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Hoosier Heartland State Bancorp Employee Stock Ownership and Savings Plan Trust, Crawfordsville, Indiana;* to become a bank holding company by acquiring additional voting shares of up to 25.35 percent of Hoosier Heartland State Bancorp, and thereby indirectly acquiring voting shares of Hoosier Heartland State Bank, both of Crawfordsville, Indiana.

B. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Central Texas Bankshare Holdings, Inc. (''CTBH''), Columbus, Texas, and its wholly-owned subsidiary, Colorado County Investment Holdings, Inc. (''CCIH''), Wilmington, Delaware;* to indirectly acquire all of the additional outstanding voting shares of Hill Bank & Trust Co. (''HBT''), Weimar, Texas, through the merger of Hill Bancshare Holdings, Inc., Weimar, Texas, a bank holding company that indirectly wholly owns HBT, with CCIH, with CCIH as the surviving entity. Following that merger, CCIH to merge with CTBH, with CTBH as the surviving entity.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–24474 Filed 11–8–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than November 25, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Dentel Bancorporation, Ames, Iowa;* to engage de novo in extending credit and servicing loans pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–24475 Filed 11–8–22; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: November 18, 2022 at 10:00 a.m.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1–202–599–1426, Code: 544 104 083#; or via web: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_NzFkZWM1ZTktODVjNS00NTQwLWFjNzgtNzJhOTdiOWNjODA2%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-e3fd-4f35-b43d-1a7afae5910d%22%2c%22Oid%22%3a%227c8d802c-5559-41ed-9868-8bfad5d44af9%22%7d.*

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the October 25, 2022 Board Meeting Minutes
2. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Report
   (c) Legislative Report
3. Quarterly Reports
   (d) Metrics

Closed Session

4. Information covered under 5 U.S.C. 552b(c)(6), (c)(10).

Authority: 5 U.S.C. 552b(e)(1).

Dated: November 4, 2022.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2022–24438 Filed 11–8–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0032; Docket 2023–0053; Sequence No. 19]

Submission for OMB Review; Contractor Use of Interagency Fleet Management System Vehicles

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

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the

Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contractor use of interagency fleet management system (IFMS) vehicles.

DATES: Submit comments on or before December 9, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Additionally, submit a copy to GSA through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

Instructions: All items submitted must cite OMB Control No. 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Marissa Ryba, Procurement Analyst, at telephone 314–586–1280, or *marissa.ryba@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

B. Needs and Uses

This clearance covers the information that contractors must submit to comply with the following FAR requirements:

FAR 51.202—For the contracting officer to authorize a contractor's use of Interagency Fleet Management System (IFMS) vehicles, this FAR section requires contractors to submit the following information:

(1) A written statement that the contractor will assume, without the right of reimbursement from the Government, the cost or expense of any use of the IFMS vehicles and services not related to the performance of the contract;

(2) Evidence that the contractor has obtained motor vehicle liability insurance covering bodily injury and property damage, with limits of liability as required or approved by the agency, protecting the contractor and the Government against third-party claims arising from the ownership, maintenance, or use of an IFMS vehicle; and

(3) Any recommendations.

FAR 51.203—Once authorized by the contracting officer, this FAR section requires contractors to submit their request for IFMS vehicles and related services in writing to the appropriate GSA point of contact and include the following information:

(1) Two copies of the agency authorization;

(2) The number of vehicles and related services required and period of use;

(3) A list of employees who are authorized to request the vehicles or related services;

(4) A listing of equipment authorized to be serviced; and

(5) Billing instructions and address.

The contracting officer will use the information to determine the contractor's eligibility to obtain IFMS vehicles and related services, and to authorize this use. The GSA will also use this information to determine whether appropriate authorization has been granted by the contracting officer.

C. Annual Burden

Respondents: 20.
Total Annual Responses: 20.
Total Burden Hours: 20.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 87 FR 53747, on September 1, 2022. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–24422 Filed 11–8–22; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice–ID–2022–03; Docket No. 2022–0002; Sequence No. 27]

Privacy Act of 1974; System of Records

AGENCY: General Services Administration (GSA).

ACTION: Notice of a new system of records.

SUMMARY: The purpose of the system of records is to maintain personal contact information of government employees in order to ship home office equipment.

DATES: This system of records will go into effect without further notice on December 9, 2022 unless otherwise revised pursuant to comments received.

ADDRESSES: You may submit comments by any of the following methods:

- *By email to the GSA Privacy Act Officer: gsa.privacyact@gsa.gov.*
- *By mail to:* Privacy Office (IDE), GSA, 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Richard Speidel, Chief Privacy Officer, GSA, by email at *gsa.privacyact@gsa.gov* or by phone at 202–969–5830.

SUPPLEMENTARY INFORMATION: The General Services Administration seeks to establish a new system of records for the GSA Advantage! program. GSA Advantage! is an online shopping and ordering system used by government agencies to purchase goods and services. GSA seeks to use GSA Advantage! As a medium for government employees to order home office equipment. This system of records will securely manage users' personal contact information to facilitate shipping this equipment directly to federal employees' personal mailing addresses.

SYSTEM NAME AND NUMBER:

GSA Advantage!—GSA/ADV–1.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The General Services Administration (GSA) Federal Acquisition Service (FAS) is the owner of the system. The system is hosted, operated, and maintained by GSA staff and contractors. Records are maintained in an electronic form on servers housed at government facilities within the United States. Contact the system manager for additional information.

SYSTEM MANAGER(S):

Director, eCommerce Division GSA IT, Office of Acquisition IT Services, 1800 F St. NW, Washington, DC 20405.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E-Government Act of 2002, Public Law 107–347 Sec. 204 (44 U.S.C. 3501 note); 40 U.S.C. 501; Public Law 104–52 Sec 620; 40 U.S.C. 587(c)(3).

PURPOSE(S) OF THE SYSTEM:

GSA Advantage! is the government's online electronic shopping and ordering system. The purpose for the GSA Advantage! Program collecting Personally Identifiable Information (PII) is to allow the purchase and shipment of home office equipment directly to federal employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information related to the purchase and shipment of home office equipment through the GSA Advantage! platform. Data elements include the covered individual's:

- full name;
- email address;
- phone number; and
- home address.

RECORD SOURCE CATEGORIES:

Information is obtained from covered individuals ordering home office equipment.

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 to authorized entities, as is determined to be relevant and necessary, outside GSA as a routine use pursuant to *5 U.S.C. 552a(b)(3)* as follows:

a. To the on-line ordering fulfillment contractor to allow for the confirmation by email of orders received, fulfilled and closed.

b. To shipping contractors or government agencies responsible for mailing services to ship the equipment to employees.

c. To an expert, consultant, or other contractor of GSA in the performance of a federal duty to which the information is relevant.

d. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where 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.

e. To the Department of Justice (DOJ) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) GSA or any component thereof, or (b) any employee of GSA in his/her official capacity, or (c) any employee of GSA in his/her individual capacity where DOJ or GSA 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 GSA determines that the records are both relevant and necessary to the litigation.

f. To a court in connection with any litigation or settlement discussions regarding claims by or against GSA, to the extent that GSA determines the disclosure of the information is relevant and necessary to the litigation or discussions.

g. To an appeal, grievance, hearing, or complaints examiner; an equal employment opportunity investigator, arbitrator, or mediator; and an exclusive representative or other person authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of the record.

h. To the National Archives and Records Administration (NARA) for records management purposes.

i. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the Government Accountability Office (GAO) in accordance with their responsibilities for evaluating federal programs.

j. To a Member of Congress or his or her staff on behalf of and at the request of the individual who is the subject of the record.

k. To another federal agency or federal entity, when GSA 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.

l. To appropriate agencies, entities, and persons when (1) GSA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) GSA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All records are stored in a secure data center. PII is encrypted in transit, encrypted at rest, and not viewable by other users.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Application administrators can retrieve records by any field search using their administrative login via Multi-Factor authentication (including appropriate background investigation and access approvals). All direct data retrievals are logged for tracking.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

System records are retained and disposed of according to GSA records maintenance and disposition schedules, the requirements of the Recovery Board, and the National Archives and Records Administration guidance.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act, the Computer Security Act, and the GSA Advantage! System Security Plan. System roles are assigned with specific permissions to allow or prevent accessing certain information. Records in the system are protected from unauthorized access and misuse through a combination of administrative, technical, and physical security measures. Administrative measures include, but are not limited to, policies that limit system access to individuals within an agency with a legitimate business need, and regular review of security procedures and best practices to enhance security. Technical measures include but are not limited to system design that enforces separation of duties for privileged users including role-based access controls; multi-factor authentication with strong passwords that are frequently changed; FIPS 140–2 compliant database encryption, and FIPS 140–2 compliant encryption in

transit. Physical security measures include but are not limited to the use of secure data centers which meet government requirements for storage of sensitive data.

RECORD ACCESS PROCEDURES:

Requests for access to records should be directed to the system manager. Individuals seeking access to their records in this system of records may submit a request by following the instructions provided in 41 CFR part 105–64.2.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest the content of records about themselves contained in this system of records should contact the system manager at the address above. See 41 CFR part 105–64.4 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should contact the system manager at the address above. Follow the procedures on accessing records in 41 CFR part 105–64.2 to request such notification.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

N/A.

Richard Speidel,

Chief Privacy Officer, Enterprise Data & Privacy Management Office, General Services Administration.

[FR Doc. 2022–24423 Filed 11–8–22; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–262]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 9, 2023.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–262—CMS Plan Benefit Package (PBP) and Formulary CY 2024

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CMS Plan Benefit Package (PBP) and Formulary CY 2024; *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits.

CMS requires that MA and PDP organizations submit a completed PBP and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. CMS uses this data to review and approve the benefit packages that the plans will offer to Medicare beneficiaries. This allows CMS to review the benefit packages in a consistent way across all submitted bids during with incredibly tight timeframes. This data is also used to populate data on Medicare Plan Finder,

which allows beneficiaries to access and compare Medicare Advantage and Prescription Drug plans. *Form Number:* CMS–R–262 (OMB control number: 0938–0763); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profits institutions; *Number of Respondents:* 839; *Total Annual Responses:* 8,932; *Total Annual Hours:* 57,126. (For policy questions regarding this collection contact Kristy Holtje, at 410–786–2209.)

Dated: November 4, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–24477 Filed 11–8–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: The Administration for Children and Families (ACF) has reorganized the Office of Administration (OA). This reorganization creates a new Office of the Chief Technology Officer (CTO). It will transfer the administration of the Public Assistance Reporting Information System (PARIS) and the coordination of Multi-Program Advance Planning Document (APD) approvals from the Office of Planning, Research, and Evaluation (OPRE) to the new CTO.

FOR FURTHER INFORMATION CONTACT: Ben Goldhaber, Deputy Assistant Secretary for Administration, Office of Administration, 330 C St. SW, Washington, DC 20201, (202) 795–7790.

SUPPLEMENTARY INFORMATION: This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF), as follows: Chapter KP, Office of the Deputy Assistant Secretary for Administration (ODASA), as last amended at 83 FR 43585 through 43586 (July 17, 2020) and Chapter KM, OPRE, as last amended 81 FR 41308 through 41310 (June 24, 2016).

I. Under Chapter KP, Office of the Deputy Assistant Secretary for Administration, delete section KP.10 Organization in its entirety and replace with the following:

KP.10 Organization. The Office of the Deputy Assistant Secretary for Administration is headed by the Deputy Assistant Secretary for Administration (DASA) who reports to the Assistant Secretary for Children and Families. The office is organized as follows:

- Office of the Deputy Assistant Secretary for Administration (KPA)
- Office of Transformation, Business, and Management (KPA)
- Office of Grants Policy (KPC)
- Office of Grants Management (KPG)
- Office of Diversity Management and Equal Employment Opportunity (KPH)
- Office of the Chief Technology Officer (KPI)
- Office of Government Contracting Services (KPA)

II. Under Chapter KP, Office of the Deputy Assistant Secretary for Administration, delete section KP.20 Functions in its entirety and replace with the following:

KP.20 Functions

A. The Office of the Deputy Assistant Secretary for Administration (ODASA) directs and coordinates all administrative activities for the Administration for Children and Families (ACF). The DASA serves as ACF's Chief Financial Officer; Chief Grants Management Officer; Federal Manager's Financial Integrity Act (FMFIA) Management Control Officer; Deputy Ethics Counselor; Personnel Security Representative; and Reports Clearance Officer. The DASA serves as the ACF liaison to the Office of the General Counsel and, as appropriate, initiates action in securing resolution of legal matters relating to management of the agency and represents the Assistant Secretary on all administrative litigation matters. The DASA represents the Assistant Secretary in HHS and with other federal agencies and task forces in defining objectives and priorities, and in coordinating activities associated with federal reform initiatives. ODASA provides leadership of assigned ACF special initiatives arising from Departmental, federal, and non-federal directives to improve service delivery to customers. The DASA provides day-to-day executive leadership and direction to the Office of the Deputy Assistant Secretary (ODAS), Office of Grants Policy (OGP), Office of Grants Management (OGM), Office of Diversity Management and Equal Employment Opportunity (ODME), Office of the Chief Information Officer (OCIO), and the Office of Government Contracting Services (OGCS). The ODASA consists of the Associate Deputy Assistant Secretary for Administration, who provides executive leadership and direction to the Office of Transformation, Business, and Management, and the Chief of Staff.

B. The Office of Transformation, Business, and Management (TBM) directs and coordinates administrative activities for ACF and the ODASA, as well as provides leadership of special initiatives to improve service delivery to customers. The Office supports the DASA in fulfilling ACF's Chief Financial Officer and FMFIA Management Control Officer responsibilities and conducts Enterprise Risk Management and Program Integrity activities across ACF. The Office provides cross-cutting services to support ACF's human capital management, including organizational and employee development activities; facility, safety, security, and emergency management activities; and activities to support the DASA's role as Deputy Ethics Counselor. TBM carries out cross-cutting activities to improve ACF service delivery, including business process engineering and data analytics. The Office manages operations for the ODASA, including human capital management, travel management, management operations, and administration and budget functions.

C. The Office of Grants Policy (OGP) provides agency-wide guidance to program and regional office staff on grant related issues, including developing and interpreting grants policy, coordinating strategic grants planning, facilitating policy advisory groups, and ensuring consistent grant program announcements. The Office prepares, coordinates, and disseminates action transmittals, information memoranda, and other policy guidance on grants management issues; provides grants administration technical assistance to ACF staff; and directs and/or coordinates management initiatives to improve financial administration of ACF mandatory and discretionary grant programs. OGP develops and administers grants management training for ACF program and grants staff and administers grants management certification for ACF grants staff. The Office serves as the centralized receipt point for grant applications, performs initial application qualification reviews, provides standard guidance and training to ACF staff on recruiting grant reviewers and conducting grant panel reviews, and oversees logistical support for program-led objective reviews.

D. The Office of Grants Management (OGM), led by the Associate Deputy

Assistant Secretary for Grants, supports the DASA in fulfilling ACF's Chief Grants Management Officer Responsibilities. The Office serves as the principal office within ACF for ensuring the business and financial responsibilities of grants administration are carried out. OGM provides direct administration and management of ACF discretionary, formula, entitlement, and block grants; directs all grants and cooperative agreements awarded by ACF and ensures compliance with applicable statutes, regulations, and policies; and performs audit resolutions. The Office provides leadership and technical guidance to ACF program and regional offices on grant operations and grants management issues. OGM interprets and implements financial policies, regulations, legislation, and appropriations law, and secures resolution of legal matters relating to grants administration and management. The Office coordinates with OGP on crosscutting issues. OGM provides agency-wide leadership and guidance to program officials and staff on grants management related issues, including assisting in developing, implementing, and evaluating program plans, strategies, regulations, program announcements, guidelines, and procedures applicable to ACF discretionary, formula, entitlement, and block grant programs. The Office provides oversight and direction in the establishment of appropriate state and grantee allocations. OGM is responsible for directing the receipt and review of all competitive grant applications; developing proposals and/or coordinating management initiatives to improve the efficiency of both the financial administration and awarding of ACF discretionary, formula, entitlement, and block grant programs; and developing procedures for the monitoring and review of ACF grant programs. The Office serves as the lead for ACF in coordination and liaison with the Department, regional offices, and other federal agencies on grants administration and management.

E. The Office of Government Contracting Services (OGCS) serves as ACF's centralized contracting office. OGCS analyzes ACF's mission needs to determine how best to utilize procured services to achieve the agency's strategic goals. The Office prepares annual acquisition strategies and specific acquisition plans, conducts market research, prepares documentation, and provides centralized coordination and review to support ACF contract awards. OGCS manages ACF's acquisition certification training programs and serves as the central point of contact for the ACF acquisition workforce. OGCS develops guidance and procedures and ensures compliance with applicable regulations, rules, and policies.

F. The Office of the Chief Technology Officer (CTO) serves to provide leadership and strategic direction on technology and innovation delivery at ACF as well as directly oversees ACF Office of the Chief Information Officer to align ACF's forward-leaning technology with its data and technology services. CTO is comprised of the Digital Service at ACF division, the administration of the PARIS, the coordination of Multi-Program APD approvals, and the ACF OCIO.

Digital Service at ACF works to transform and improve the U.S. human services ecosystem by modernizing information technology systems, improving the design and delivery of human services, and delivering value to the government stakeholders, human service providers, grantees, and consumers of ACF's services.

The mission of OCIO is to obtain, procure, or develop cost effective and efficient information technology (IT) solutions that enable ACF's staff and grantees to successfully fulfill programmatic missions that result in the realization of the ACF vision. The OCIO implements IT strategies, policies, and governance frameworks to improve the efficiency and performance of ACF's IT systems that support ACF business processes in a manner that balances risk and cost with required outcomes, while ensuring compliance with all federal statutes and regulations. OCIO has ACF-wide responsibility for the direction and development of ACF's IT acquisition strategy, planning analysis and approval, management of IT investments both pre-award and post-award, and leadership of key technology initiatives. The OCIO provides oversight and guidance on the use of business process reengineering, performance measurement, and continuous process improvement in the development, operation, and application of information systems and infrastructure. The OCIO manages cross-organizational stakeholder relations to maintain a flexible and adaptive IT posture that supports a resilient risk management approach to IT security and privacy. The OCIO creates policies to provide improved management of information resources and technology to more efficiently and effectively service ACF's internal and external clients and ACF employees. The OCIO will identify the appropriate continuing education for staff in the domain of records management, IT security and privacy, and incident response protocols.

III. Under Chapter KM, OPRE, delete in its entirety and replace with the following: KM.00 MISSION. OPRE is the principal advisor to the Assistant Secretary for Children and Families on improving the effectiveness and efficiency of programs designed to make measurable improvements in the economic and social well-being of children and families. OPRE provides guidance, analysis, technical assistance, and oversight to ACF programs and across programs in the agency on strategic planning aimed at measurable results; performance measurement and management; research and evaluation methodologies; demonstration testing and model development; statistical policy and program analysis; synthesis and dissemination of research, evaluation, and demonstration findings; data science; data governance; data use, re-use, and integration; data ethics; data sharing, privacy, and confidentiality; and application of emerging technologies to improve the effectiveness of programs and service delivery.

OPRE, through the Division of Economic Independence, the Division of Child and Family Development, the Division of Family Strengthening, and the Division of Data and Improvement, oversees and manages the research and evaluation programs under sections 413, 429, 511, 1110, and 2008 of the Social Security Act and section 649 of the Head Start Act, as well as other research, evaluation, data, and improvement activities authorized by Congress and related to ACF programs and the populations they serve. These activities include priority setting and analysis; managing and coordinating major cross-cutting, leading-edge studies, and special initiatives; and collaborating with federal partners, states, communities, foundations, professional organizations, and others to promote the safety, well-being, and development of children, families, and communities; parental responsibility; employment; and economic independence.

OPRE also provides coordination and leadership in implementing the Government Performance and Results Act, Modernization Act, the Paperwork Reduction Act, the Information Quality Act, and the Foundations for Evidence-Based Policymaking Act and provides expert advice on matters related to data use and reuse, privacy and confidentiality, and the sharing of information. The Office coordinates mandated OMB information collection

approvals and plans and includes ACF's Reports Clearance Officer.

KM.10 Organization. OPRE is headed by a Deputy Assistant Secretary, who reports to the Assistant Secretary for Children and Families. The Office is organized as follows:

- Office of the Deputy Assistant Secretary (KMA)
- Division of Economic Independence (KMB)
- Division of Child and Family Development (KMC)
- Division of Family Strengthening (KMD)
- Division of Data and Improvement (KME)

KM.20 Functions

A. The Office of the Deputy Assistant Secretary provides direction and executive leadership to OPRE in administering its responsibilities. It serves as principal advisor to the Assistant Secretary for Children and Families on all matters pertaining to improving the effectiveness and efficiency of ACF programs; strategic planning; performance measurement and management; research, evaluation, statistical, and analysis methods; program and policy evaluation; research and demonstrations; state and local innovations and progress; synthesis and dissemination of research and evaluation findings; supports ACF programs in responsibly managing and using data to improve the effectiveness, equity, and efficiency of human services programs; and application of emerging technologies to improve the effectiveness of programs and service delivery. It represents the Assistant Secretary for Children and Families at various planning, research, evaluation, data, and improvement forums and carries out special Departmental and Administration initiatives.

The Office of the Deputy Assistant Secretary manages the formulation and execution of budgets for OPRE programs; manages correspondence; coordinates the provision of staff development and training; provides support for OPRE's personnel administration, including staffing, employee and labor relations, performance management, and employee recognition; manages OPRE space, facilities, and supplies; and overseas travel, time and attendance, and other administrative functions for OPRE.

B. The Division of Economic Independence, in cooperation with ACF income support programs and others, works with federal counterparts, states, community agencies, and the private sector to understand and overcome barriers to economic independence; promotes parental responsibility; and assists in improving the effectiveness of programs that further economic independence. The Division provides guidance, analysis, technical assistance, and oversight in ACF on strategic planning and performance measurement for economic independence; statistical, policy, and program analysis; surveys, research, and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to programs that promote employment, parental responsibility, and economic independence.

The Division develops policy-relevant research priorities; conducts, manages, and coordinates major cross-program, leading-edge research, demonstrations, and evaluation studies; manages and conducts statistical, policy, and program analyses on trends in employment, child support payments, and other income supports; and works in partnership with states, communities, and the private sector to promote employment, parental responsibility, and family economic independence. Division staff also provides consultation, coordination, direction, and support for research and evaluation activities related to employment, parental responsibility, and family economic independence across ACF programs.

C. The Division of Child and Family Development, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to improve the effectiveness and efficiency of programs and foster safety and sound growth and development of children and their families. The Division provides guidance, analysis, technical assistance, and oversight in ACF on strategic planning and performance measurement for child and family development; statistical, policy, and program analysis; surveys, research, and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to improve the effectiveness of programs and service delivery. The Division conducts, manages, and coordinates major cross-programs, leading-edge research, demonstration and evaluation studies; develops policy-relevant research priorities; and manages and conducts statistical, policy, and program analyses related to children and families. Division staff also provides consultation, coordination, direction, and support for research and evaluation activities related to children and families across ACF programs.

D. The Division of Family Strengthening, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to improve the effectiveness and efficiency of programs; fosters the safety, positive growth and development of children, youth, parents, and vulnerable populations; and strengthens families.

The Division provides guidance, analysis, technical assistance, and oversight in ACF on parent, child, youth and family development and dynamics; child safety; statistical, policy and program analysis; surveys, research, and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to improve the effectiveness of programs and service delivery.

The Division conducts, manages, and coordinates major cross-program, leading-edge research, demonstration, and evaluation studies; develops policy-relevant research priorities; and manages and conducts statistical, policy, and program analyses related to strengthening families. Division staff also provides consultation, coordination, direction, and support for research and evaluation activities related to strengthening families across ACF programs.

E. The Division of Data and Improvement supports ACF programs in responsibly managing and using data to improve the effectiveness, equity, and efficiency of human services programs. The Division works with ACF programs and, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to improve the effectiveness, efficiency, and equity of programs through improved management and use of data.

Division staff provide guidance, analysis, technical assistance, and oversight on strategic planning and performance measurement; data governance; data ethics; statistical, policy, and program analysis; continuous improvement; surveys, data collection, and analysis methodologies; application of data analyses to program operations and decision-making; application of emerging technologies to improve the effectiveness of programs and service delivery; data sharing,

privacy, and confidentiality; and data skill development.

The Division coordinates and provides consultation, direction, and support for ACF data governance activities; conducts demonstrations and develops tools, policies, and procedures that support the increased accessibility and reuse of administrative and survey data for statistical purposes; conducts, manages, and coordinates major cross-program, leading-edge research, demonstration, and evaluation studies related to responsible data management and use; develops policy-relevant priorities for data collection and analysis; manages and conducts statistical, policy, and program analyses; and provides consultation, coordination, direction, and support for research and evaluation activities related to responsible data management and use. The Division provides leadership and guidance to interagency work groups in these areas for the Department.

IV. Continuation of Policy. Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to organizational components affected by this notice within ACF, heretofore issued and in effect on this date of this reorganization are continued in full force and effect.

V. Delegation of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

VI. Funds, Personnel, and Equipment. Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

This reorganization will be effective upon date of signature.

January Contreras,

Assistant Secretary, Administration for Children and Families.

[FR Doc. 2022–24421 Filed 11–8–22; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2174]

Oncologic Drugs Advisory Committee; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The meeting of the Oncologic Drugs Advisory Committee scheduled for November 22, 2022, is canceled. This meeting was announced in the **Federal Register** of September 22, 2022. The meeting is no longer needed.

FOR FURTHER INFORMATION CONTACT: Joyce Frimpong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–7973, *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting, which was announced in the **Federal Register** of September 22, 2022 (87 FR 57904).

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24470 Filed 11–8–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–E–2257]

Determination of Regulatory Review Period for Purposes of Patent Extension; XCOPRI

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for XCOPRI and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by January 9, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 8, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 9, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–E–2257 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; XCOPRI.'' Received

comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, XCOPRI (cenobamate) indicated for treatment of partial-onset seizures in adult patients. Subsequent to this approval, the USPTO received a patent term restoration application for XCOPRI (U.S. Patent No. 7,598,279) from SK Biopharmaceuticals Co., Ltd., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated April 5, 2021, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of XCOPRI represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for XCOPRI is 5,326 days. Of this time, 4,850 days occurred during the testing phase of the regulatory review period, while 476 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* August 12, 2005. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on August 12, 2005.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* November 21, 2018. FDA has verified the applicant's claim that the new drug application (NDA) for XCOPRI (NDA 212839) was initially submitted on November 21, 2018.

3. *The date the application was approved or the effective date of approval for a drug product recommended for control under the Controlled Substances Act:* March 10, 2020. FDA has verified the applicant's claim that NDA 212839 was approved on November 21, 2019, and that the date of issuance of the interim final rule controlling the drug under section 201(j) of the Controlled Substances Act (21 U.S.C. 811(j)) was March 10, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the

Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24457 Filed 11–8–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–E–0381]

Determination of Regulatory Review Period for Purposes of Patent Extension; TISSUEBLUE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for TISSUEBLUE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by January 9, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 8, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 9, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–E–0381 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; TISSUEBLUE.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical

investigations of the drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product TISSUEBLUE (Brilliant blue G Ophthalmic Solution). TISSUEBLUE is a disclosing agent indicated to selectively stain the internal limiting membrane. Subsequent to this approval, the USPTO received a patent term restoration application for TISSUEBLUE (U.S. Patent No. 7,731,941) from Kyushu University, National University Corporation, and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated June 8, 2021, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of TISSUEBLUE represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for TISSUEBLUE is 4,631 days. Of this time, 4,395 days occurred during the testing phase of the regulatory review period, while 236 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* April 18, 2007. The applicant claims March 7, 2013, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was April 18, 2007, which was 30 days after FDA receipt of an earlier IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* April 29, 2019. The applicant claims April 26, 2019, as the date the new drug application (NDA) for TISSUEBLUE (NDA 209569) was initially submitted. However, FDA records indicate that NDA 209569 was initially submitted on April 29, 2019.

3. *The date the application was approved:* December 20, 2019. FDA has verified the applicant's claim that NDA 209569 was approved on December 20, 2019.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,375 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24434 Filed 11–8–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–E–2046]

Determination of Regulatory Review Period for Purposes of Patent Extension; NEXLETOL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for NEXLETOL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by January 9, 2023. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 8, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 9, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a

third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–E–2046 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; NEXLETOL.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, NEXLETOL (bempedoic acid). NEXLETOL is indicated as an adjunct to diet and maximally tolerated statin therapy for the treatment of adults with heterozygous familial hypercholesterolemia or established atherosclerotic cardiovascular disease who require additional lowering of LDL–C. Subsequent to this approval, the USPTO received a patent term restoration application for NEXLETOL (U.S. Patent No. 7,335,799) from Esperion Therapeutics, Inc., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated December 14, 2020, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of NEXLETOL represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for NEXLETOL is 3,774 days. Of this time, 3,408 days occurred during the testing phase of the regulatory review period, while 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* October 24, 2009. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 24, 2009.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* February 21, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for NEXLETOL (NDA 211616) was initially submitted on February 21, 2019.

3. *The date the application was approved:* February 21, 2020. FDA has verified the applicant's claim that NDA 211616 was approved on February 21, 2020.

This determination of the regulatory review period establishes the maximum

potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24431 Filed 11–8–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–0697]

Sameness Evaluations in an Abbreviated New Drug Application—Active Ingredients; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Sameness Evaluations in an ANDA—Active Ingredients.'' This guidance is intended to assist applicants preparing an abbreviated new drug application (ANDA) by providing recommendations on demonstrating sameness between the active ingredient in a proposed generic drug product and its reference listed drug (RLD).

DATES: Submit either electronic or written comments on the draft guidance by January 9, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–0697 for ''Sameness Evaluations in an ANDA—Active Ingredients.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Susan Levine, Office of Generic Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Sameness Evaluations in an ANDA—Active Ingredients.'' This guidance is intended to assist applicants preparing an ANDA by providing recommendations on demonstrating sameness between the active ingredient in a proposed generic drug product and its RLD as required under section 505(j)(2)(ii) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)(2)(ii)) and FDA's regulations at 21 CFR 314.94(a)(3)(i).

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (Hatch-Waxman Amendments) created an approval pathway for generic drug products under which applicants can submit an ANDA under section 505(j) of the FD&C Act. An ANDA relies on the Agency's previous finding of safety and effectiveness for an RLD and, as a result, may be approved without submission of the same type and extent of information that is required for approval of a new drug application to establish the safety and effectiveness of the proposed product. Among other things, an ANDA must contain information to show that the active ingredient of the proposed generic drug product is the ''same as'' that of the RLD (21 U.S.C. 355(j)(2)(A)(ii); 21 CFR 314.94(a)(5)). FDA may not approve an ANDA unless the ANDA contains sufficient information to show that, among other things, the active ingredient is the same as that of the reference listed drug (21 CFR 314.127(a)(3)). Accordingly, the ANDA applicant is responsible for providing sufficient information to demonstrate that the proposed generic drug product is the ''same as'' the RLD with respect to the active ingredient. To assist prospective applicants in evaluating and demonstrating sameness, this guidance provides information on active ingredient sameness considerations.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Sameness Evaluations in an ANDA—Active Ingredients.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is *not required* for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24432 Filed 11–8–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[OMB No. 0915–0345 Revision]

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: HRSA AIDS Drug Assistance Program (ADAP) Data Report

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 January 9, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 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 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: HRSA Ryan White HIV/AIDS Program (RWHAP) AIDS Drug Assistance Program (ADAP) Data Report: (OMB No. 0915–0345).

Abstract: HRSA's RWHAP ADAP is authorized under Part B of the RWHAP legislation, codified in sections 2611 to 2631 of the Public Health Service Act, which provides grants to U.S. states and territories. RWHAP ADAP is a state and territory-administered program that provides Food and Drug Administration-approved medications to low-income people with HIV who have limited or no health coverage from private insurance, Medicaid, or Medicare. RWHAP ADAP funds may also be used to purchase health care coverage for eligible clients and for services that enhance access, adherence, and monitoring of drug treatments.

All 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the five U.S. Pacific Territories or Associated Jurisdictions receive RWHAP Part B grant awards, including funds for RWHAP ADAP. RWHAP Part B reporting requirements include the annual submission of an ADAP Data Report (ADR), including a Recipient Report and a Client Report. The Recipient Report is a collection of basic information about grant recipient characteristics and policies including program administration, purchasing mechanisms, funding, and expenditures. The Client Report is a collection of client-level records (one record for each client enrolled in the RWHAP ADAP), which includes the client's encrypted unique identifier, basic demographic data, enrollment information, services received, and clinical data.

HRSA is proposing two revisions and one re-installment of questions to the ADR Recipient and Client Reports to

reflect program practices and support HRSA's analysis and understanding of program impact. Specifically, the Recipient Report includes the following proposed changes:

- Replacement of the Recertification Date variable with the Last Date of Eligibility Confirmation will remove the previous 6-month recertification requirement, which is no longer required by policy, *see* Policy Clarification Notice 21–02, and allow Recipients to report the latest eligibility confirmation date for existing clients;
- Reinstate a question that was inadvertently removed from the 2021 ADR that is needed to assess the quality of medication data; and
- Change the DUNS number variable to Unique Entity Identifier. On April 4, 2022, the federal government stopped using DUNs numbers, making it less burdensome for entities to do business with the federal government. As a result, Recipients no longer have to report the DUNs number in the ADR.

HRSA does not anticipate these proposed revisions resulting in a change in the reporting burden. New and revised data elements require reporting of information that should already be collected by recipients to meet legislative or programmatic requirements for the proper oversight and administration of the program.

Need and Proposed Use of the Information: RWHAP requires the submission of annual reports by the Secretary of Health and Human Services to the appropriate committees of Congress. HRSA uses the ADR to evaluate the national impact of the RWHAP ADAP by providing deidentified client-level data on individuals being served, services being delivered, and costs associated with these services. The client-level data is used to monitor health outcomes of people with HIV receiving care and treatment through the RWHAP ADAP, to monitor the use of RWHAP ADAP funds in addressing the HIV epidemic and its impact on communities, and to track progress toward achieving the goals identified in the National HIV/AIDS Strategy.

Likely Respondents: State ADAPs of RWHAP Part B recipients.

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
Grantee Report	54	1	54	6	324
Client-Level Report	54	1	54	81	4,374
Total	54		54		4,698

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. 2022–24461 Filed 11–8–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

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 intramural programs and projects as well as the grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with intramural programs and projects as well as the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: February 9, 2023.

Closed: 11:00 a.m. to 11:30 a.m.

Agenda: Presentation of AABSC Report.

Closed: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Open: 12:45 p.m. to 5:30 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902, Bethesda, MD 20892, 301–443–9737, *bautista@mail.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.

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: November 3, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24401 Filed 11–8–22; 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; Fellowship: Immunology and Infectious Disease Panel A.

Date: November 30–December 1, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Deanna C. Bublitz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4005, *deanna.bublitz@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: Electron Microscope Systems (S10).

Date: November 30, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zubaida Saifudeen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–3029, *zubaida.saifudeen@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: 20–181 Limited Competition National Primate Research Program Projects.

Date: November 30–December 2, 2022.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., IRG Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, Bethesda, MD 20892, (301) 435–2514, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in HIV and AIDS.

Date: December 1, 2022.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, *banerjees5@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

Date: December 1, 2022.

Time: 9:30 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zheng Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3385, *zheng.li3@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular and Cellular Sciences and Technologies Member Conflict.

Date: December 1, 2022.

Time: 10:00 a.m. to 8:30 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: Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4809, *lystranne.maynard-smith@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: November 3, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24404 Filed 11–8–22; 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; PAR–21–061: Workforce Diversity in Cancer Research.

Date: December 6, 2022.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5902, *caojn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Biodata, and Biomodeling Technologies.

Date: December 7, 2022.

Time: 1:00 p.m. to 3:30 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: David R. Filpula, Ph.D., BS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program

Project: Advancing Statistical Practice for Personalized Medicine in Substance Use Research.

Date: December 8, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Neurobiology and Neuropharmacology.

Date: December 8, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ali Sharma, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 402–3248, *sharmaa15@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Vector Biology and Infectious Disease Etiology, Diagnosis, Intervention, and Treatment.

Date: December 9, 2022.

Time: 2:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jui Pandhare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7735, *pandharej2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Visual Processes, Neuroplasticity, and Movement.

Date: December 9, 2022.

Time: 12:00 p.m. to 6:30 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: 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.*

(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: November 3, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24400 Filed 11–8–22; 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; Secondary Data Analysis Applications (R21).

Date: December 7, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, NEI, 6700 B Rockledge Dr., Rockville, MD 20814 (Virtual Meeting).

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Eye Institute, Bethesda, MD 20817, 240–276–5864, *jennifer.schiltz@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 3, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24381 Filed 11–8–22; 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; Cancer Biology AREA/REAP Review.

Date: December 5, 2022.

Time: 1:00 p.m. to 5:30 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: Juraj Bies, 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 1256, *biesj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology Research.

Date: December 6, 2022.

Time: 10:00 a.m. to 8:30 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: Subhamoy Pal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0926, *subhamoy.pal@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Anti-Infective Therapeutics.

Date: December 7–8, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marcus Ferrone, PHARMD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–2371, *marcus.ferrone@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Language and Cognition.

Date: December 7, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112,

MSC 7808, Bethesda, MD 20892, (301) 496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Microbiology and Immunology.

Date: December 7, 2022.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Cha-Han Chang, BA, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–0290, *changdac@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Membership Conflict: Aging, Alzheimer's disease and related dementias (ADRD).

Date: December 7, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009B, MSC 7850, Bethesda, MD 20892, (301) 435–1203, *laurent.taupenot@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: November 3, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24382 Filed 11–8–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 National Advisory Council on Alcohol Abuse and Alcoholism.

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 Advisory Council on Alcohol Abuse and Alcoholism, Early Concurrence Review of Grant Applications and Administrative Supplement.

Date: December 14, 2022.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902, Bethesda, MD 20892, 301–443–9737, *bautista@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: November 3, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24402 Filed 11–8–22; 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; PAR Panel: Innovative Research in Cancer Nanotechnology 2.

Date: November 18, 2022.

Time: 12:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal and Biological Material Resource Centers and Resource-Related Research Projects.

Date: November 22, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mollie Kim Manier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0510, *mollie.manier@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skin Sciences.

Date: November 22, 2022.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, *limc4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematology.

Date: November 22, 2022.

Time: 11:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration, Synapse Plasticity, and Glia Function.

Date: November 22, 2022.
Time: 12:30 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jacek Topczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 594–7574, *topczewskij2@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: November 3, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24403 Filed 11–8–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0121]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 9, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0121 in the body of the letter, the agency name and Docket ID USCIS–2007–0037. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0037.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0037 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Generic Clearance of Qualitative Feedback on Agency Service Delivery.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; businesses and organizations. This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection 1615–0121 is 56,000 and the estimated hour burden per response is 0.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 28,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. Respondents to this collection of information are not required to provide documentation or take other actions that might incur a cost.

Dated: November 3, 2022.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–24399 Filed 11–8–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0126]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Collection of Qualitative Feedback Through Focus Groups

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 9, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0126 in the body of the letter, the agency name and Docket ID USCIS–2012–0004. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2012–0004.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2012–0004 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Collection of Qualitative Feedback through Focus Groups.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Form; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit; Not-for-profit institutions. Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Department of Homeland Security/U.S. Citizenship and Immigration Services seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for this information collection is 25,000 and the estimated hour burden per response is 1.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 37,500 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. There is no cost to participate and there is no mailing cost as these are electronic submissions.

Dated: November 3, 2022.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–24405 Filed 11–8–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6331–N–06]

Public Interest Phased Implementation Waiver of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: In accordance with the Build America, Buy America Act (''BABA'' or ''the Act'') this notice advises that HUD is proposing a public interest waiver to further HUD's phased implementation of the Buy America Domestic Content Procurement Preference (''Buy America Preference,'' or ''BAP'') for recipients of Federal Financial Assistance (''FFA'') provided by HUD. On May 5, 2022, HUD previously issued a separate waiver covering all FFA obligated by HUD on or before November 14, 2022, including Community Development Block Grant (''CDBG'') formula grants. In order to fully focus on the successful implementation of the BAP in CDBG formula grants, one of HUD's largest grant programs, HUD has determined that it is in the public interest to propose a new public interest waiver of the application of the BAP for all other FFA provided by HUD. HUD is proposing that this waiver cover all FFA obligated by HUD during the ninety (90) day period after its effective date except for those funds utilized in connection with the purchase of iron or steel products in infrastructure projects funded by CDBG formula grants obligated by HUD on or after November 15, 2022. In addition, in the case of FFA obligated by HUD on or after November 15, 2022, but prior to the effective date of the final waiver, the waiver will apply to all expenditures incurred on or after the date of the final waiver, except for those funds utilized in connection with the purchase of iron or steel products in infrastructure projects funded by CDBG formula grants obligated by HUD on or after November 15, 2022. HUD is also, through this waiver, soliciting specific comment on the further phased implementation of the BAP in connection with the iron and steel products used in other non-CDBG formula grant FFA provided by HUD and in the full implementation of the BAP in connection with the use of construction materials and manufactured products in all infrastructure projects across HUD's FFA programs.

DATES: HUD published this proposed waiver on its website on November 3, 2022. Comments on the waiver proposed in this document are due on or before November 17, 2022. HUD will consider comments received and announce any subsequent changes to this waiver through a subsequent notice. If issued, the waiver would be applicable to awards that are obligated on the effective date of the waiver and eighty-nine (89) days thereafter for a total of ninety (90) days.

ADDRESSES: Interested persons are invited to submit comments on this public interest, general applicability waiver. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

To receive consideration as public comments, comments must be submitted through one of two methods, specified below. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.*

HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

No Facsimile Comments. Facsimile (FAX) comments will not be accepted.

3. *Public Inspection of Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the submissions must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Joseph Carlile, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10226, Washington, DC 20410–5000, at (202) 402–7082 (this is not a toll-free number). 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.* HUD encourages submission of questions about this document be sent to *BuildAmericaBuyAmerica@hud.gov.*

SUPPLEMENTARY INFORMATION:

I. Build America, Buy America

The Build America, Buy America Act (''BABA'' or ''the Act'') was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (''IIJA'') (Pub. L. 117–58). The Act establishes a domestic content procurement preference, the BAP, for Federal infrastructure programs. Section 70914(a) of the Act establishes that no later than 180 days after the date of enactment, HUD must ensure that none of the funds made available for infrastructure projects may be obligated by the Department unless it has taken steps to ensure that the iron, steel, manufactured products, and construction materials used in a project are produced in the United States. In section 70912, the Act further defines a project to include ''the construction, alteration, maintenance, or repair of infrastructure in the United States'' and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Thus, beginning May 14, 2022, new awards of FFA by HUD through a program for infrastructure, and any of those newly obligated funds then obligated by the grantee, are covered under BABA provisions of the Act, 41 U.S.C. 8301 note, unless covered by a waiver.

II. HUD's Progress in Implementation of the Act

Since the enactment of the Act, HUD has worked diligently to implement the BAP. Consistent with the requirements

of section 70913 of the Act, HUD produced a report identifying and evaluating all of HUD's Federal Financial Assistance programs for compliance with the BAP on January 19, 2022, by **Federal Register** notice ''Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act'' (87 FR 2894). In order to ensure orderly implementation of the BAP across HUD's programs, HUD published two general applicability waivers for HUD's programs on May 3, 2022. The first notice, ''General Applicability Waiver of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance'' (87 FR 26219), extended the implementation date for the BAP until November 14, 2022, unless covered by a subsequent waiver. Thus, no funds obligated by HUD before November 14, 2022, are subject to the BAP. The second notice, ''General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance'' (87 FR 26221), extended the implementation date for the BAP for Federal Financial Assistance provided to Tribal recipients for a period of one year. Additionally, on June 1, 2022(87 FR 33193) HUD published a Request for Information ''Request for Information Relating to the Implementation of the Build America, Buy America Act'' to gather additional information necessary to fully implement the BAP for HUD programs and to adequately prepare necessary Paperwork Reduction Act notices relating to such implementation.

Following the expiration of the ''General Applicability Waiver of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance'' (87 FR 26219), HUD will fully implement the BAP for purposes of the purchase of iron and steel products used in infrastructure projects funded with Federal Financial Assistance provided by HUD through its CDBG formula grants obligated by HUD on or after November 15, 2022. Additional details on HUD's implementation of the BABA requirements can be found at *https://www.hud.gov/program_offices/general_counsel/BABA.*

III. Waiver Authority

Under section 70914(b), HUD and other Federal agencies have authority to waive the application of a domestic content procurement preference when (1) application of the preference would be contrary to the public interest, (2) the materials and products subject to the preference are not produced in the United States at a sufficient and reasonably available quantity or satisfactory quality, or (3) inclusion of domestically produced materials and products would increase the cost of the overall project by more than 25 percent. Section 70914(c) provides that a waiver under 70914(b) must be published by the agency with a detailed written explanation for the proposed determination and provide a public comment period of not less than 15 days.

IV. Public Interest, General Applicability Waiver of Buy America Provisions

The Office of Management and Budget's April 18, 2022 memorandum, ''Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure'' (M–22–11),[1] encourages agencies to consider ways to provide the assistance to funding recipients that is necessary and effective for the implementation of the BAP, including consideration of phased implementation of BAP where appropriate.

In Fiscal Year 2022, HUD grantees will receive more than $15 billion through the Department's programs where infrastructure is an eligible activity that may be subject to the BAP. For example, Community Development Block Grant (''CDBG'') funds may be used for infrastructure projects (*e.g.,* water and sewer improvements, street improvements, neighborhood facilities) or non-infrastructure uses (*e.g.,* senior services, youth services, operation of food banks, administrative and planning expenses). HUD estimates that 40 percent of CDBG funds awarded in 2021 ($1.4 billion of $3.5 billion total) were used on infrastructure projects where the BAP could apply.

As HUD's previous Notices advised and as supported by several comments received during the comment period, many of HUD's programs may be subject to the BAP and have previously not required compliance with similar Buy America preferences. Because the potential application of BAP mandated by the Act is new to the majority of HUD's programs and Federal Financial Assistance (''FAA''), HUD is choosing to implement the BAP first with respect to all iron and steel products used in infrastructure projects funded with FFA provided by HUD through its CDBG formula grants on or after November 15, 2022. In order to focus on this implementation, HUD is proposing to waive the application of the BAP in connection with all other FAA. This will provide an additional limited period to allow for further consideration of the most efficient methods of implementation of the BAP across the remaining HUD programs for construction materials and manufactured products more generally. This waiver advances BABA by reducing the administrative burden to potential assistance recipients where the costs of uncertainty in compliance with BABA could distract from the focus on the efficient and effective implementation of BABA in one of HUD's largest FFA programs and allows for broader phased implementation once further clarity and guidance on the implementation is received. Failure to provide recipients such flexibilities could delay the award for infrastructure projects as grantees and funding recipients must exert considerable effort in accounting for the sourcing for miscellaneous, low-cost construction materials without the benefit of complete guidance on the Act's requirements.

HUD believes that better coordination with HUD FAA recipients in the implementation of BABA will avoid unnecessary and undue hardship. Such a waiver will allow grantees and funding recipients to focus their efforts on such critical projects. Proposing this waiver is not an alternative to increasing domestic production. Rather this waiver will allow HUD to focus (particularly in the early phases of BABA implementation) on key products and critical supply chains where increased U.S. manufacturing can best advance our economic and national security. This waiver will also allow grantees and funding recipients to continue with projects in connection with iron and steel products where Made in America requirements have long been contemplated—providing greater ease of implementation for HUD's CDBG formula grantees. Without this waiver, HUD grantee and funding recipient participation could be impacted, such as modification of current plans.

As HUD's previous Notice advised and as supported by several comments received during the comment period, many of the HUD's programs that may be subject to the BAP and have previously not required compliance with similar Buy America preferences. Because the potential application of BAP mandated by the Act is new to the

[1] See OMB Memorandum M–22–08, Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act, *https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-08.pdf.*

majority of HUD's FFA programs, this waiver advances BABA by targeting the initial phased implementation to a well-developed industry in connection with infrastructure projects being undertaken by sophisticated CDBG formula grantees. HUD is seeking comment on the further implementation of the BAP but will focus specific attention to the full implementation of the BAP in connection with the use of iron and steel in infrastructure projects in other FFA programs utilizing HUD funds within this waiver period.

No funds obligated by HUD or the grantee/funding recipient during the period of the waiver that would be exempted from compliance with BAP as a result of the waiver will be required to apply the BAP.

V. Impact of This Waiver on Other Federal Financial Assistance

No funds that have been obligated by HUD before November 14, 2022, or during the pendency of this waiver will require compliance with the BAP, with the exception of iron and steel products used in connection with infrastructure projects funded through CDBG formula grants obligated by HUD on or after November 15, 2022, or unless otherwise required by another FFA award. Where the BAP or other BABA requirements are made applicable to a project of a grantee or funding recipient by another Federal agency, those requirements are not waived by this waiver, nor is the grantee or funding recipient exempt from the application of those requirements in accordance with the requirements of the Federal Agency providing such Federal Financial Assistance.

VI. Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB Memorandum M–22–11, ''Memorandum for Heads of Executive Departments and Agencies,'' published on April 18, 2022, agencies are expected to assess ''whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products'' as appropriate before granting a public interest waiver.[2] HUD's analysis has concluded that this assessment is not applicable to this waiver, as this waiver is not based in the cost of foreign-sourced products. HUD will perform additional market research during the waiver period to better understand the market and to limit the use of waivers caused by dumping of foreign-sourced products.

VII. Solicitation of Comments on the Waiver

As required under section 70914 of the Act, HUD is soliciting comment from the public on the waiver announced in this Notice. In particular, HUD invites comments on the waiver of application of the BAP for iron and steel products in connection with infrastructure projects funded through HUD's FFA programs other than CDBG formula grants. HUD also seeks specific comment on how it may best further phase in the application of the BAP for all construction materials and manufactured products in connection with CDBG formula grants and all other HUD FFA programs. HUD invites comments on what time period would be appropriate for purposes of achieving these various phases of orderly implementation of the Act.

Marcia L. Fudge,

Secretary.

[FR Doc. 2022–24510 Filed 11–7–22; 11:15 am]

BILLING CODE 4210–67–P

[2] See OMB Memorandum M–22–08, Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act, *https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-08.pdf.*

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota.

DATES: The extension takes effect on November 9, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota have signed an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to April 12, 2023. This publication provides notice of the new expiration date of the compact.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–24446 Filed 11–8–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[23XD4523WD; DS68664000; DWDFO0000.000000; DQ.QSO4A.23WD0000; OMB Control Number 1084–0033]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Private Rental Survey

AGENCY: Office of the Secretary, Office of Acquisition and Property Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary, Office of Budget, are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 9, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Laura Walters, Quarters Rental Program Manager, Interior Business Center, 7301 W Mansfield Ave., MS D–2910, Denver, CO 80235, or fax 303–969–6336, or by email to *laura_a_walters@ibc.doi.gov.* Please reference Office of Management and Budget (OMB) Control Number 1084–0033 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Laura Walters, Quarters Rental Program Manager, Interior Business Center, 7301 W Mansfield Ave., MS D–2910, Denver, CO 80235, or fax 303–969–6336, or by email to *laura_a_walters@ibc.doi.gov.*

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on August 11, 2022 (87 FR 49606). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Title 5 of the U.S. Code section 5911 authorizes Federal agencies to provide housing for Government employees under specified circumstances. In compliance with OMB Circular A–45 (Revised), Rental and Construction of Government Housing, a review of private rental market housing rates is required at least once every 5 years to ensure that the rental, utility charges, and charges for related services to occupants of Government Furnished Housing (GFH) are comparable to corresponding charges in the private sector. To avoid unnecessary duplication and inconsistent rental rates, the Department of the Interior, Office of the Secretary, Interior Business Center (on behalf of the Office of Acquisition and Property Management), conducts housing surveys in support of employee housing management programs for the Departments of the Interior (DOI), Agriculture, Commerce, Homeland Security, Justice, Transportation, Health and Human Services, Veterans Affairs, and other agencies. In this survey, two collection forms are used for rental unit data: OS–2000 covering ''Houses–Apartments–Mobile Homes,'' and OS–2001 covering ''Trailer Spaces.''

Respondents are typically property management companies or significant property owners in specific communities and are contacted by email or telephone. They may provide the rental unit information requested in OS–2000 and OS–2001 verbally, update rental data collected during a previous survey, enhance/complete rental data gathered from published sources, or provide lists of rental units they manage.

This collection of information provides data that is essential for DOI and the other Federal agencies to manage GFH in accordance with the requirements of OMB Circular A–45 (Revised). If this information were not collected from the public, DOI and the other Federal agencies providing GFH would be required to use professional real estate appraisals of private market rental costs, again, in accordance with OMB Circular A–45, but at an increased cost to the taxpayer.

Title of Collection: Private Rental Survey.

OMB Control Number: 1084–0033.

Form Number: OS–2000 and OS–2001.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses and other for-profit institutions.

Total Estimated Number of Annual Respondents: 1,883.

Total Estimated Number of Annual Responses: OS–2000: 3,180; OS–2001: 359; Total: 3,539.

Estimated Completion Time per Response: 6 minutes for OS–2000 and 4 minutes for OS–2001.

Total Estimated Number of Annual Burden Hours: 342 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once per respondent every fourth year. Three or four of 16 total survey regions are surveyed every year. Therefore, a respondent or business may potentially be surveyed every fourth year if the exact same unit is surveyed again four years later. In addition, if an individual respondent or business is a significant rental property manager or rental property owner in the community, they may provide multiple responses in the same survey. Approximately 63% of respondents furnish more than one rental unit (OS–2000 and OS–2001). About 60% of respondents validate published data (tax records, advertisement, etc.), 30% update their previous survey data, and 10% furnish a new OS–2000 or OS–2001. Participation is optional.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jeffrey Parrillo,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–24391 Filed 11–8–22; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLESJ02400–L16100000–DU0000–223L1109AF]

Notice of Availability of the Draft Resource Management Plan Amendment and Associated Environmental Assessment for the 1995 Florida Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) Amendment and Environmental Assessment (EA) for the 1995 Florida RMP for the Jupiter Inlet Lighthouse Outstanding Natural Area (ONA). This notice announces a 60-day comment period on the Draft RMP Amendment, EA, unsigned finding of no significant impact (FONSI), and the BLM's proposed area of critical environmental concern (ACEC).

DATES: Your comments on the Draft RMP Amendment and EA must be received by the BLM by January 9, 2023 or 15 calendar days after the last public meeting, whichever is later.

Your comments on the BLM's proposed ACEC must be received by the BLM by January 9, 2023.

The BLM will be holding two public meetings on the following dates at the following locations:

- November 29, 2022 6 p.m. EST, Virtual via Zoom. Registration is required. To register in advance for this webinar, visit: *https://blm.zoomgov.com/webinar/register/WN_g28o8mgJQu61-NUSkeTLLw.*
- December 15, 2022 6 p.m. EST, Virtual via Zoom. Registration is required. To register in advance for this webinar, visit: *https://blm.zoomgov.com/webinar/register/WN_bpCJIDWnQCS5HcQyytVVUQ.*

ADDRESSES: The Draft RMP Amendment and EA, including information about the proposed ACEC, are available for review on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/2002316/510.*

Written comments related to the Draft RMP Amendment, EA or ACEC proposal for the 1995 Florida RMP may be submitted by any of the following methods:

- *Florida RMP Amendment ePlanning Website: https://eplanning.blm.gov/eplanning-ui/project/2002316/510;*
- *Mail:* Program Manager, Jupiter Inlet Lighthouse Outstanding Natural Area, Bureau of Land Management, 600 State Road 707, Unit B, Jupiter, Florida 33469; or
- *Email: BLM_ES_JupiterONA@blm.gov.*

Documents pertinent to this proposal may be examined at the Jupiter Inlet Lighthouse Outstanding Natural Area.

FOR FURTHER INFORMATION CONTACT: Peter DeWitt, Program Manager; telephone: (561) 295–5955; address: Jupiter Inlet Lighthouse Outstanding Natural Area, Bureau of Land Management, 600 State Road 707, Unit B, Jupiter, Florida 33469; email: *BLM_ES_JupiterONA@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 Mr. DeWitt's last name. 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 document provides notice that the BLM Eastern States State Director has prepared a Draft RMP Amendment and EA and is announcing the comment period on the Draft RMP Amendment and EA, including BLM's proposed ACEC. The RMP amendment would change the existing 1995 Florida RMP.

The planning area is located in Palm Beach County, Florida, and encompasses approximately 126 acres of public land.

The BLM has prepared the Draft RMP Amendment for the Jupiter Inlet Lighthouse ONA and associated EA to evaluate management strategies for resources, resource uses, and special designations within the Jupiter Inlet Lighthouse ONA. The Draft Florida RMP Amendment for the Jupiter Inlet Lighthouse ONA will determine management for approximately 120 acres of BLM-administered surface land (Lots 15, 17, 19, and 22); lands expected to be returned to the BLM when the United States Coast Guard relinquishes its withdrawal (Lots 16 and 21); land patented to the Town of Jupiter that, if ever returned, would fall under the jurisdiction of the BLM (Lot 20); and a 1.08-acre easement granted to the BLM by the State of Florida.

The BLM, as directed by the Consolidated Natural Resources Act of 2008 (CNRA), manages the ONA in coordination with local partners to protect, preserve, and enhance the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values at the ONA, with an emphasis on restoring native ecological systems. Issues considered in the Draft Florida RMP Amendment and EA are conserving and protecting ONA resources and objects or values including special status species, native ecosystems, visual and scenic values; maintaining ONA values and settings; and managing for sustainable recreation, visitor growth, and visitor enjoyment. The Draft Florida RMP Amendment and EA also considers decisions regarding a special recreation management area (SRMA) and associated recreation management zones (RMZs), land use authorizations, and an ACEC.

The formal public scoping process for the Draft Florida RMP Amendment and EA began January 21, 2022, with the publication of a Notice of Intent in the **Federal Register** (87 FR 3328). The BLM held one virtual scoping meeting on February 9, 2022. The BLM used scoping comments to help identify planning issues and frame the scope of analysis in the Draft Florida RMP Amendment and EA. The BLM also used the scoping process to introduce the public to the planning criteria and preliminary alternatives to obtain feedback on the alternatives and the analysis strategy.

Purpose and Need

The BLM is seeking to amend the 1995 Florida RMP to provide guidance for the legislatively mandated uses and protections of the Jupiter Inlet Lighthouse ONA. The need for the amendment is to update special designations and provide land use planning-level direction for recreation programs and land within the ONA that the BLM acquired after designation that reflects the evolving long-term management needs for protection, conservation, and enhancement of the unique and nationally important values of the site consistent with the ONA's designating language (CNRA) and Resource Management Planning regulations at 43 CFR 1610. The purpose of the amendment is to establish management direction for BLM-administered land and resources, as described below.

Land Management: The purpose for the action includes considering the availability of land within the ONA for land use authorizations, such as commercial leases, and establishing management direction for land within the ONA that the BLM acquired after the

U.S. Coast Guard completed a withdrawal relinquishment to the BLM.

Recreation Management: The purpose for the action includes providing for recreation opportunities in a manner that is consistent with the ONA's designating language by exploring the establishment of a recreation management area, RMZs, and an area suitable for an Interpretive/Visitor Center.

ACEC: The purpose for the action includes determining whether special management attention provided under an ACEC designation is warranted for these areas in light of the congressional designation of the ONA.

Alternatives Including the Preferred Alternative

The BLM has analyzed three alternatives in detail, including the No Action Alternative (Alternative A) and two action alternatives (Alternatives B and C). Alternative A continues existing management in the planning area, as reflected in decisions from the 1995 Florida RMP. However, Alternative A does not reflect management direction in the CNRA and does not include decisions for all areas that are currently managed by the BLM. Under Alternative A, Lot 15 would remain designated as the Jupiter Inlet tract ACEC (51.1 acres) and Lots 15 and 20 would be available for conveyance under the Recreation and Public Purposes Act or available for cooperative management with other government and/or private organizations. Alternative B focuses on updating the management objective to include conservation and consideration of the seven core resources and values for which the ONA was designated. In addition, Alternative B would remove the ACEC designation from Lot 15, designate an SRMA and associated RMZs, allow lands acquired to be managed in the same way as adjacent lands, manage temporary land use authorizations, and disallow long-term leasing of the site. Alternative C would expand the Jupiter Inlet tract ACEC to 87.5 acres, limit temporary land use authorizations, and allow long-term leasing. Similar to Alternative B, Alternative C would also set a management objective to include conservation and consideration of the seven core resources and values for which the ONA was designated and designate an SRMA and associated RMZs. The BLM did not identify any additional alternatives needing consideration.

The State Director has identified Alternative B as the preferred alternative. Alternative B was found to best meet the State Director's planning guidance and, therefore, was selected as the preferred alternative because it provides a balanced management approach that meets the intent of the CNRA by addressing public access, recreation, and visitor services, while providing equitable opportunities for the appropriate use of the ONA. In addition, an ACEC designation is not necessary or appropriate because management attention provided under the congressional designation is adequate to protect the resources and values.

ACECs

The preferred alternative would not propose the following potential ACECs for designation:

- the existing Jupiter Inlet tract ACEC in Lot 15 (51.1 acres)
- the expanded Jupiter Inlet tract ACEC to encompass Lots 15, 16, 17, and 19 (87.5 acres).

Comments may be submitted using any of the methods listed in the **ADDRESSES** section earlier.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a 60-day Governor's consistency review on the Proposed RMP Amendment. The Proposed RMP Amendment and EA is anticipated to be available for public protest in March 2023 with an Approved RMP Amendment and Decision Record in June 2023.

See the **DATES** section for the dates and locations of scheduled meetings. The date(s) and location(s) of any additional meetings will be announced at least 15 days in advance through local news media, newspapers, social media channels, and the BLM website at: *www.blm.gov/JupiterONA,* and the ePlanning project page at *https://eplanning.blm.gov/eplanning-ui/project/2002316/510.*

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Consultation will continue on an individual basis with interested Tribal Nations.

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.

(Authority: 43 CFR 1610.7–2)

Mitchell Leverette,

State Director.

[FR Doc. 2022–24467 Filed 11–8–22; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L19900000.PO0000.LLHQ320.23X; OMB Control No. 1004–0194]

Agency Information Collection Activities; Surface Management Activities Under the General Mining Law

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 9, 2023.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0194 in the subject line of your comments. The electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Sabry Hanna by email at *shanna@blm.gov,* or by telephone at (501) 458–6644. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make

international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

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

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might 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 response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The control number enables the BLM to determine whether operators and mining claimants are meeting their responsibility to prevent unnecessary or undue degradation while conducting exploration and mining activities on public lands under mining laws. This OMB Control Number is currently scheduled to expire on April 30, 2023. The BLM plans to request that OMB renew this OMB Control Number for an additional three years.

Title of Collection: Surface Management Activities under the General Mining Law (43 CFR Subpart 3809).

OMB Control Number: 1004–0194.

Form Numbers: 3809–1, Surface Management Surety Bond; 3809–2, Surface Management Personal Bond; 3809–4, Bond Rider Extending Coverage of Bond to Assume Liabilities for Operations Conducted by Parties Other Than the Principal; 3809–4a, Surface Management Personal Bond Rider and; 3809–5, Notification of Change of Operator and Assumption of Past Liability.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Operators and mining claimants.

Total Estimated Number of Annual Respondents: 1,495.

Total Estimated Number of Annual Responses: 1,495.

Estimated Completion Time per Response: Varies from 1 to several hours per response.

Total Estimated Number of Annual Burden Hours: 183,308.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $4,780 for notarizing Forms 3809–2 and 3809–4a.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2022–24479 Filed 11–8–22; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–22–048]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 17, 2022 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. No. 731–TA–1594 (Final)(Superabsorbent Polymers from South Korea). The Commission currently is scheduled to complete and file its determination and views of the Commission on December 5, 2022.
5. Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 7, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–24538 Filed 11–7–22; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on August 4, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the ''Act''), Pistoia Alliance, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Consource, Tokyo, JAPAN; Algorithmiq Inc., Helsinki, FINLAND; Valo, Boston, MA; Agile ISR LLC, Hoschton, GA; Lei Xie (individual member), New York, NY; Rebecca Leary (individual member), Newcastle, UNITED KINGDOM; and Kamini Trivedi (individual member), New York,

NY; have been added as parties to this venture.

Also, Medalynx, Thousand Oaks, CA; and Molecular Quantum Solutions, Søborg, DENMARK; have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on May 16, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 31, 2022 (87 FR 53493).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24471 Filed 11–8–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Report on Occupational Employment and Wages.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before January 9, 2023.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Employment and Wage Statistics (OEWS) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current detailed occupational employment and wages for each Metropolitan Statistical Area and Metropolitan Division as well as by detailed industry classification. OEWS survey data assist in the development of employment and training programs established by the Perkins Vocational Education Act and the Wagner-Peyser Act.

The OEWS program operates a periodic mail survey of a sample of non-farm establishments conducted by all fifty States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Over three-year periods, data on occupational employment and wages are collected by industry at the four- and five-digit North American Industry Classification System (NAICS) levels. The Department of Labor uses OES data in the administration of the Foreign Labor Certification process under the Immigration Act of 1990.

II. Current Action

Office of Management and Budget clearance is being sought for the OEWS program. Occupational employment data obtained by the OEWS survey are used to develop information regarding current and projected employment needs and job opportunities. These data assist in the development of State vocational education plans. OEWS wage data provide a significant source of information to support a number of different Federal, State, and local efforts.

With the release of the May 2021 OEWS estimates in March 2022, the OEWS program implemented a new model-based estimation methodology (MB3). The MB3 methodology uses modeling to predict the staffing pattern and wages for every non-observed establishment on the OEWS population frame using observed OEWS survey response data along with current data from the Quarterly Census of Employment and Wages program. This differs from the older design-based methodology that used weighting and imputation to make the OEWS response data represent the OEWS population frame. Research and testing indicated the accuracy and reliability of the MB3 estimates improved over the former approach.

As part of an ongoing effort to reduce respondent burden, OEWS has several electronic submission options which are available to respondents. Respondents have the ability to submit data by email, or fillable online forms. In many cases, a respondent can submit existing payroll records and would not need to submit a survey form.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: Report on Occupational Employment and Wages.

OMB Number: 1220–0042.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local, or Tribal Government.

Total Respondents: 255,965.

Frequency: Semi-annually.

Total Responses: 255,965.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 127,982.

Total Burden Cost (capital/startup): $00.00.

Total Burden Cost (operating/maintenance): $00.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

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

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–24385 Filed 11–8–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0037]

Standard for Welding, Cutting, and Brazing; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard for Welding, Cutting, and Brazing.

DATES: Comments must be submitted (postmarked, sent, or received) by January 9, 2023.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2010–0037) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to reduce employees' risk of death or serious injury by ensuring that employment has been tested and is in safe operating condition.

Section 1910.255(e) requires that a periodic inspection of resistance welding equipment be made by qualified maintenance personnel, and that a certification record be generated and maintained. The certification shall include the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The record shall be made available to an OSHA inspector upon request. The maintenance inspection ensures that welding equipment is in safe operating condition while the maintenance record provides evidence to workers and agency compliance officers that employers performed the required inspections.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

The agency requests an adjustment decrease of 187 burden hours (from 5,806 burden hours to 5,619 burden hours) associated with the collections of information in the Welding, Cutting, and Brazing Standard. This adjustment decrease is a result of a decrease in the number of welders, cutters, solders, and brazers in general industry from 21,770 to 21,070 a difference of 700 welders, cutter, solders, and brazers in the previous package. The agency will summarize any comments submitted in response to this notice and will include this summary in its request to OMB.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: The Standard for Welding, Cutting, and Brazing (29 CFR part 1910, subpart Q).

OMB Control Number: 1218–0207.

Affected Public: Business or other for-profits.

Number of Respondents: 21,070.
Number of Responses: 84,280.
Frequency of Responses: On occasion.
Average Time per Response: Varies.
Estimated Total Burden Hours: 5,619.
Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0037). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–24445 Filed 11–8–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: The Family and Medical Leave Act of 1993, as Amended

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department) is soliciting comments concerning a proposed extension of the information collection request titled, ''The Family and Medical Leave Act of 1993, as Amended.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA). The Department proposes to extend the approval of this existing information collection without change to existing requirements. The PRA program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 9, 2023.

ADDRESSES: You may submit comments identified by Control Number 1235–0003, by either one of the following methods: *Email: WHDPRAComments@dol.gov*; *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. *Background:* The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, and its regulations at 29 CFR part 825 require private sector employers that employ 50 or more employees, all public and private elementary schools, and all public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for certain family and medical reasons. Qualifying reasons for leave include birth of a child and to bond with the newborn child; placement with the employee of a child for adoption or foster care; to care for the employee's spouse, child, or parent who has a serious health condition; a serious health condition that makes the employee unable to perform the functions of the employee's job; qualifying exigencies arising out of the deployment of the employee's spouse, son, daughter, or parent to covered active duty in the military, and up to 26 weeks of unpaid, job protected leave during a single 12-month period to care for a covered current servicemember or veteran with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

The Wage Hour Division (WHD) created optional use forms for this information collection. The General Notice (WHD Publication 1420) provides information needed to allow employers to satisfy the general notice requirement. See 825.300(a). The Certification of Health Care Provider for Employee's Serious Health Condition (Form WH–380–E) allows an employee requesting FMLA leave for their own serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee's own serious health condition. See 825.305(a). The Certification of Health Care Provider for Family Member's Serious Health Condition (Form WH–380–F) allows an employee requesting FMLA leave for a qualifying family member's serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member's serious health condition. See 825.305(a). Notice of Eligibility & Rights and Responsibilities (Form WH–381) allows an employer to satisfy the regulatory requirement to provide an employee who potentially qualifies to take FMLA leave with a notice of whether the employee is eligible as defined in 825.110, and written notice detailing specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. See 825.300(b) and (c). Designation Notice (Form WH–382) provides a format an employer may use to meet its obligation to designate leave as FMLA leave. See 825.301(a). Certification of Military Family Leave for Qualifying Exigency (Form WH–384) allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency. See 825.309. Certification for Serious Injury or Illness of a Current Servicemember for Military Caregiver Leave (Form WH–385) allows an employee requesting FMLA leave based on an active duty covered servicemember's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See 825.310. Finally, Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Form WH–385–V) allows an employee requesting leave based on a veteran's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See 825.310.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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; and
- Provide information that could help 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.

III. *Current Actions:* The Department of Labor seeks an approval for the extension of this information collection to ensure effective administration of the Family and Medical Leave Act of 1993, as Amended.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: The Family and Medical Leave Act of 1993, as Amended.

OMB Control Number: 1235–0003.

Agency Numbers: Forms WH–380–E, WH–380–F, WH–381, WH–382, WH–384, WH–385, WH–385–V.

Affected Public: Private sector, business or other for-profit, not-for-profit institutions; State, local, or Tribal Governments; Federal Government.

Total Respondents: 19,059,432.

Total Annual Responses: 73,433,351.

Estimated Total Burden Hours: 9,907,359.

Estimated Time per Response: Varies with type of request (1.25–20 minutes).

Frequency: On occasion.

Total Burden Cost: $480,705,058.68.

Total Burden Cost (Operations/Maintenance): $269,181,387.

Dated: November 1, 2022.

Amy DeBisschop,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2022–24386 Filed 11–8–22; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of National Council on the Humanities

AGENCY: National Endowment for 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 National Council on the Humanities will meet to advise the Chair of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out her functions.

DATES: The meeting will be held on Thursday, November 17, 2022, from 10:00 a.m. until 10:50 a.m.

ADDRESSES: The meeting will be held by videoconference originating at Constitution Center, 400 7th Street SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The National Council will convene in executive session by videoconference on November 17, 2022, from 10:00 a.m. to 10:50 a.m.

This meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B) of Title 5 U.S.C., as amended, because it will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: November 3, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022–24396 Filed 11–8–22; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) Committee on Science and Engineering Policy hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE:

Monday, November 14, 2022, from 12:00 p.m.–12:30 p.m. EST.

Friday, November 18, 2022, from 3:30 p.m.–4:00 p.m. EST.

PLACE: This meeting will be held by video conference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The agenda for the November 14 meeting is: Chair's opening remarks; discussion of the narrative outline for the SEI 2024 Higher Education 2024 thematic report.

The agenda for the November 18 meeting is: Chair's opening remarks; discussion of the narrative outline for the SEI 2024 Labor Force thematic report.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: (Chris Blair, *cblair@nsf.gov*), 703/292–7000. The link to a You Tube livestream will be available from the meeting notice web page: *https://www.nsf.gov/nsb/meetings/index.jsp.*

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–24640 Filed 11–7–22; 4:15 pm]

BILLING CODE 7555–01–P

National Science Foundation

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: This meeting was noticed on October 28. 2022, at 87 FR 65258.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Friday, November 4, 2022, from 2:00–3:00 p.m. EDT.

CHANGES IN THE MEETING: This meeting is CANCELLED.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703–292–7000.

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–24635 Filed 11–7–22; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on December 5–6, 2022. A sample of agenda items to be discussed during the public session includes: an overview of Y–90 medical events; overview of the review of Lu–177–PSMA for the treatment of adult patients with prostate cancer; review of pre-rulemaking documents for the rulemaking to establish requirements for Rb–82 generators and emerging medical technologies; and overview of the status of rulemaking for regulations for decommissioning financial assurance for sealed and unsealed radioactive materials. The agenda is subject to change. The current agenda and any updates will be available on the ACMUI's Meetings and Related Documents web page at *https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2022.html* or by emailing Ms. Gupta Sarma at the contact information below.

Purpose: Discuss issues related to 10 CFR part 35, Medical Use of Byproduct Material.

Date and Time for Open Sessions: December 5, 2022, from 8:30 a.m. to 4:30 p.m. EST, December 6, 2022, from 10:00 a.m. to 12:00 p.m. EST.

Date and Time for Closed Session: December 6, 2022, from 1:30 p.m. to 3:30 p.m. EST. This session will be closed to conduct the ACMUI's required annual training.

Address for Public Meeting: U.S. Nuclear Regulatory Commission, One White Flint North Building, Commissioner's Hearing Room, 11555 Rockville Pike, Rockville, Maryland 20852.

Date	Webinar information (Microsoft teams)
December 5, 2022	Link: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGZiN2JhZDctNGMzYS00OTRjLWFiYjktYjNjMDM3Y2RhOGI2%40thread.v2/0?context=%7b%22Tid%22%3a%22e8d01475-c3b5-436a-a065-5def4c64f52e%22%2c%22Oid%22%3a%225b3cab2a-da77-46d1-b0df-ca02d21f6361%22%7d.* Meeting ID: 248 090 740 397. Passcode: HE2JRc. Call in number (audio only): +1 301–576–2978 (Silver Spring, MD, US). Phone Conference ID: 767 488 798#.

Public Participation: Any member of the public who wishes to participate in the meeting in person, via Microsoft Teams, or via phone should contact Ms. Gupta Sarma using the information below. The Meeting will be webcast live from the NRC's Webcast Portal at *https://video.nrc.gov/.* Members of the public should also monitor the NRC's Public Meeting Schedule at *https://www.nrc.gov/pmns/mtg* for any meeting updates.

Contact Information: Ms. Gupta Sarma, email: *TXG5@nrc.gov.*

Conduct of the Meeting

The ACMUI Chair, Darlene F. Metter, M.D., will preside over the meeting. Dr. Metter will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Gupta Sarma using the contact information listed above. All submittals must be received by the close of business on November 29, 2022 and must only pertain to the topics on the agenda.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chair.

3. The draft transcript and meeting summary will be available on ACMUI's website *https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2022.html* on or about January 20, 2023.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Gupta Sarma of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10 of the *Code of Federal Regulations,* Part 7.

Dated at Rockville, Maryland this 4th day of November 2022.

For the U.S. Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–24480 Filed 11–8–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–32 and CP2023–31; MC2023–33 and CP2023–32]

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:* November 14, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–32 and CP2023–31; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 10 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 3, 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:* November 14, 2022.

2. *Docket No(s).:* MC2023–33 and CP2023–32; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 78 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 3, 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:* November 14, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–24504 Filed 11–8–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96219; File No. SR–NSCC–2022–013]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Clearing Agency Liquidity Risk Management Framework To Include a New Section Describing the Process by Which FICC Would Designate Uncommitted Resources as Qualifying Liquid Resources and Make Other Changes

November 3, 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 October 20, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Liquidity Risk Management Framework (''Framework'') of NSCC and its affiliates, The Depository Trust Company (''DTC'') and Fixed Income Clearing Corporation (''FICC,'' and together with NSCC and DTC, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Clearing Agencies'').[3] Specifically, the proposed rule changes would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as qualifying liquid resources (''QLR''); [4] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes, as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the Framework [5] to set forth the manner in which they measure, monitor and manage the liquidity risks that arise in or are borne by each of the Clearing Agencies, including (i) the manner in which each Clearing Agency deploys their respective liquidity tools to meet its settlement obligations on an ongoing and timely basis, and (ii) each applicable Clearing Agency's use of intraday liquidity.[6] In this way, the Framework describes the liquidity risk management of each of the Clearing Agencies and how the Clearing Agencies meet the applicable requirements of Rule 17Ad–22(e)(7) under the Act.[7]

The proposed changes to the Framework would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR; [8] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes. Each of these proposed changes is described in greater detail below.

i. Proposed Amendments To Add a New Section Describing the Process by Which FICC Would Designate Uncommitted Liquidity Resources as QLR

The Clearing Agencies would add a new section to the Framework that pertains specifically to FICC's designation of uncommitted liquidity resources as QLR pursuant to the requirements of Rule 17Ad–22(a)(14)(ii)(B) under the Act.[9] FICC does not at this time have uncommitted liquidity resources designated as QLR; however, the proposed new section would allow FICC to have such QLR to the extent the requirements of Rule 17Ad–22(a)(14)(ii)(B) are followed.

In addition, and consistent with its existing processes, FICC would consider whether any uncommitted liquidity resources, including those that are designated as QLR, would require a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act,[10] and the rules thereunder, or an advance notice with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010,[11] and the rules thereunder.

The proposed new section would explain that, in order to designate an uncommitted liquidity resource as a QLR, FICC would first identify the properties of each financing arrangement, including the underlying collateral and the liquidity providers. Based on the nature of the liquidity resource, FICC would then determine the nature of the rigorous analysis that is appropriate for that resource and would conduct that analysis at least annually.

The proposed new section to the Framework would also state that, following completion of that analysis, both (1) the components of that analysis and (2) the results of that analysis, would be presented to the Board Risk Committee on at least on an annual basis. When considering whether to designate the uncommitted resource as a QLR, the Board Risk Committee would determine if the uncommitted liquid resource is highly reliable under extreme but plausible market conditions consistent with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[12]

ii. Proposed Amendments To Clarify That FICC May Have Access to Liquidity Resources That are not Designated as QLR

The proposed changes to the Framework would also make clear that FICC may have access to liquidity resources that are not designated as QLR. At this time, FICC maintains uncommitted master repurchase agreements (''MRAs'') that can be utilized to finance via the repo market

[3] Capitalized terms not defined herein are defined in the DTC Rules, By-Laws and Organization Certificate, the FICC Government Securities Division Rulebook, the FICC Mortgage-Backed Securities Division Clearing Rules, or the NSCC Rules & Procedures (''NSCC Rules''), as applicable, *available at http://dtcc.com/legal/rules-and-procedures.*

[4] *See* 17 CFR 240.17Ad–22(a)(14).

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (SR–DTC–2017–004; SR–NSCC–2017–005; SR–FICC–2017–008).

[6] *See* 17 CFR 240.17Ad–22(e)(7)(i), (ii), and (iv) through (ix).

[7] *Id.*

[8] *See* 17 CFR 240.17Ad–22(a)(14).

[9] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[10] 15 U.S.C. 78s(b)(1).

[11] 12 U.S.C. 5465(e)(1).

[12] 17 CFR 240.17Ad–22(a)(14)(ii)(B). Examples of the type of information that the Board Risk Committee could rely on in order to determine whether it would be appropriate to designate the proposed uncommitted resource as a QLR would include whether (i) FICC has identified securities that may be pledged pursuant to the proposed financing arrangement and that such securities are reasonably likely to be readily available for pledging and acceptable as collateral; (ii) FICC has reviewed the terms of the proposed financing arrangement to confirm such terms are current, appropriate and not expected to restrict FICC's use of the proposed financing arrangement; (iii) FICC has completed due diligence of each liquidity provider as required by Rule 17Ad–22(e)(7)(iv) under the Act; and (iv) FICC has developed procedures to test the proposed financing arrangement at least annually to confirm the liquidity providers are operationally able to perform their commitments and are familiar with the drawdown process, consistent with the requirements of Rule 17Ad–22(e)(7)(v) under the Act. 17 CFR 240.17Ad–22(e)(7)(iv) and (v). In addition, FICC would include in the analysis presented to the Board Risk Committee recommendations and analyses of an independent third party that the proposed resource is highly reliable in extreme but plausible market conditions.

the securities in FICC's Clearing Funds and those purchased on behalf of a defaulting Member to raise funds. While not designated as QLR, amounts available under the MRAs may be utilized as liquidity resources in the event of a Member default. The proposed rule change states that on a weekly basis, a study to estimate the depth of the repo market under prevailing market conditions as well as a sample stress scenario to assess potential available liquidity in the event of default of the largest Member would be performed.

In addition, the proposed rule changes provide that, at least annually, FICC would conduct counterparty due diligence reviews that would assess each non-QLR liquidity provider's ability to provide liquidity to FICC under current market conditions and would provide a summary of these reviews to the Board Risk Committee.[13] The proposed rule change also states that FICC would test any non-QLR annually with the respective liquidity providers to confirm that such liquidity providers are operationally able to perform their commitments and are familiar with the applicable process.

As a conforming change, the proposed rule change would delete language referring to MRAs as QLR. The proposed rule change would add a sentence stating that FICC may count MRAs as QLR if the procedures for designating them as such (as described above) are followed. As a further conforming change, the proposed rule change would specify that the section of the Framework regarding liquidity resources that are not designated as QLR applies specifically to FICC.

iii. Proposed Amendments To Delete the Stand-Alone Section on Due Diligence and Testing, and Instead Add Due Diligence and Testing Descriptions Where Each Liquidity Resource Is Described or State Where Testing Is Not Performed, as Applicable

The current Framework contains a stand-alone section (''Stand-Alone Section'') on the due diligence and testing of liquidity providers that the Clearing Agencies perform. The proposed rule changes would delete the Stand-Alone Section and would instead add descriptions of the due diligence and testing performed in connection with each type of liquidity resource in the section of the Framework where each resource is described, as further described below in subsection v. The proposed rule changes also state where testing is not performed, where applicable, as further described below in subsections iv. and v.

More specifically, the Stand-Alone Section currently states that the Counterparty Credit Risk department (''CCR'') reviews the limits, outstanding investments, and collateral held (if applicable) at each investment counterparty. The proposed rule change would (i) restate this language to make clear that CCR's review includes a financial analysis of each counterparty, the Clearing Agencies' investments at each counterparty, and any recommendations for changes in limits to these investments and (ii) place the restated sentence in the section of the Framework related to the specific liquidity resource that CCR is surveilling.[14] The Stand-Alone Section also references formal reviews on the reliability of QLR providers and specifically ascribes certain due diligence and review responsibilities to CCR. The proposed rule change would describe CCR's obligations regarding liquidity providers in the appropriate section of the Framework related to the specific liquidity resource that CCR is surveilling. The proposed rule change also indicates where another department, such as Treasury, is responsible for actions that the Stand-Alone Section ascribes to CCR. For non-QLR liquidity resources, the proposed rule change describes the role of several departments in reviewing these resources.

Finally, the Stand-Alone Section references testing. The proposed rule change would move the references to testing where each resource is described in the Framework.

iv. Proposed Amendments To Clarify the Description of FICC's QLR

The proposed changes would make clear that each FICC division has its own Clearing Fund that includes deposits of cash. The proposed changes would also delete language regarding the ability of FICC to borrow from the Clearing Fund as that is already covered in the rules of each division. The proposed rule change would clarify the description of FICC's QLR by adding language on same day access to funds regarding deposits of Clearing Fund in creditworthy commercial banks. The proposed changes would also clarify that the rules-based committed Capped Contingency Liquidity Facility programs are determined for each FICC division per the division's respective rules.

In addition, the Framework would make clear that for purposes of making FICC Clearing Fund deposits, Members are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[15]

v. Proposed Amendments To Clarify the Description of NSCC's and DTC's QLR, Add Language To Reflect NSCC's and DTC's Current Due Diligence and Testing Processes for Their Committed Line of Credit, and Make a Correction to the Description of DTC's Collateral Monitor

The proposed rule change would clarify the description of NSCC's QLR by deleting language regarding the ability of NSCC to borrow from the Clearing Fund as that is already covered in the NSCC Rules. In addition, the proposed changes would replace ''medium- and long-term'' with ''senior'' (which covers both medium- and long-term) before ''unsecured notes'' in the description of NSCC's QLR in order to simplify terminology.

The proposed changes would provide that, because the process for collecting Supplemental Liquidity Deposits (''SLD''), pursuant to NSCC Rule 4A,[16] is the same process used for collecting required deposits to the NSCC Clearing Fund, and Members are aware of such process, no testing is required for purposes of Rule 17Ad–22(e)(7)(v) under the Act.[17] In addition, the proposed changes would state that NSCC conducts Member outreach with those Members whose liquidity exposure may require them to make SLD in the future.

The proposed rule change would clarify the descriptions of DTC's and NSCC's QLR by adding language on same day access to funds regarding deposits of DTC Participants Fund and NSCC Clearing Fund in creditworthy commercial banks. In addition, the proposed changes would make clear that for purposes of making DTC Participants Fund deposits and NSCC Clearing Fund deposits, DTC Participants and NSCC Members, respectively, are not considered ''liquidity providers'' with reference to

[13] Such due diligence includes reviews of, for example, relevant member financial metrics, results of operational testing, and relevant market data applicable to the type of securities being financed.

[14] The sentence in the Stand-Alone Section that refers to a review of each investment counterparty's deposit level at the Federal Reserve Bank of New York would not be retained because it reflects a drafting error (the Clearing Agencies are concerned with their deposits at the counterparties and not the counterparties' deposits at the Federal Reserve Bank of New York).

[15] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[16] *See supra* note 3.

[17] 17 CFR 240.17Ad–22(e)(7)(v).

Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[18]

The proposed changes would add language to the descriptions of DTC's and NSCC's QLR to reflect DTC's and NSCC's current practices of conducting surveillance of bank lenders to their committed credit facility, and testing the committed credit facility at least annually to confirm that the lenders, agents and respective Clearing Agency are operationally prepared to meet their obligations under the facility and are familiar with the borrowing process.

The proposed rule change would also make a correction to the description of DTC's Collateral Monitor. Currently, the Framework states that the Liquidity Risk Product Unit verifies that the Collateral Monitor will not become negative if the transaction is processed. Because this verification is done automatically, the proposed rule change would correct the sentence to state that DTC performs this verification automatically.

vi. Proposed Amendments To Make Technical Changes

The proposed rule changes include certain technical changes as follows:

- Make conforming and cross-reference changes in the Executive Summary;
- Delete a sentence that may be confusing in that it states that liquidity resources are maintained consistent with risk tolerances, whereas the correct statement is that liquidity resources are maintained consistent with Rule 17Ad–22(e)(7) under the Act,[19] which is already stated elsewhere in the Framework;
- Make conforming and cross-reference changes in the general section on ''Liquidity Resources;''
- Restate the first sentence in the section describing FICC's QLR so that it reads more clearly;
- Remove cross-references and phrases referencing other sections of the Framework where such references are no longer correct;
- Add the word ''FICC'' to the end of a sentence where it was inadvertently deleted; and
- Renumber the last three sections of the Framework to account for the deletion of the section on due diligence/testing.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[20] and Rules 17Ad–22(e)(7) and 17Ad–22(a)(14)(ii)(B) under the Act,[21] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible,[22] for the reasons described below. The proposed changes described above in Items II(A)1.i. and II(A)1.ii. would update the Framework to (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR; [23] and (2) clarify that FICC may have access to liquidity resources that are not designated as QLR. By updating the Framework to reflect these changes, the Clearing Agencies believe the proposed rule change would make the Framework more effective in describing FICC's liquidity risk management procedures as they relate to FICC's liquidity resources. The proposed rule changes would introduce clarity to the Framework through the addition of a specific process regarding FICC's designation of uncommitted resources as QLR and would better explain the section regarding FICC's resources that are not QLR. Because FICC's liquidity resources support the ability of FICC to effect timely settlement, and because the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions and therefore also potentially facilitate timely settlement, the Clearing Agencies believe that the proposed changes described in Items II(A)1.i. and II(A)1.ii. above are consistent with Section 17A(b)(3)(F) of the Act.

The proposed changes described in Items II(A)1.iii. through II(A)1.vi. above would (1) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described; (2) clarify the description of FICC's QLR; (3) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes regarding their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (4) make technical changes. These proposed changes would improve the clarity of the descriptions of various liquidity management processes of the Clearing Agencies. The improvement in the clarity of the descriptions of liquidity risk management processes within the Framework would assist the Clearing Agencies in carrying out these functions. Therefore, the Clearing Agencies believe the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act [24] that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Clearing Agencies believe that the proposed changes are consistent with Rule 17Ad–22(e)(7) under the Act,[25] which requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the requirements set forth in Rule 17Ad–22(e)(7). The proposed rule changes described above have been designed to enhance the Clearing Agencies' compliance with Rule 17Ad–22(e)(7) by addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications. By addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications, the proposed rule changes would reduce ambiguity and thus assist risk management staff in the performance of their duties associated with compliance of Rule 17Ad–22(e)(7).

In addition, the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions, in accordance with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[26]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe the proposed rule change would have any impact, or impose any burden, on competition. As described above, the

[18] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[19] 17 CFR 240.17Ad–22(e)(7).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(7) and 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *See* 17 CFR 240.17Ad–22(a)(14).

[24] 15 U.S.C. 78q–1(b)(3)(F).

[25] 17 CFR 240.17Ad–22(e)(7).

[26] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

proposed changes would update the Framework to describe the process by which FICC would designate uncommitted liquidity resources as QLR, clarify that FICC may have access to liquidity resources that are not designated as QLR, and improve the clarity of the descriptions of the Clearing Agencies' liquidity risk management functions. Therefore, the proposed changes relate mostly to the operation of the Framework and/or are technical in nature. As such, the Clearing Agencies do not believe that the proposed rule change would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

The Clearing Agencies reserve the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2022–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2022–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2022–013 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24410 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96218; File No. 10–239]

24X National Exchange LLC; Notice of Filing of Amendment No. 1 to an Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

November 3, 2022.

On March 25, 2022, 24X National Exchange LLC (''24X'') filed with the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Act'') seeking registration as a national securities exchange under Section 6 of the Act.[1] Notice of the application was published for comment in the **Federal Register** on June 6, 2022.[2] The Commission received comment letters on 24X's Initial Form 1 Application and a letter from 24X responding to these comment letters.[3] On September 1, 2022, the Commission instituted proceedings pursuant to Section 19(a)(1)(B) of the Act[4] to determine whether to grant or deny 24X's application for registration as a national securities exchange under Section 6 of the Act (the ''OIP'').[5] The Commission received one comment letter in response to the OIP,[6] and a letter in response to the OIP from 24X.[7] On October 21, 2022, 24X filed an amendment to its Initial Form 1

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78f.

[2] *See* Securities Exchange Act Release No. 95007 (May 31, 2022), 87 FR 34333 (June 6, 2022) (''Initial Form 1 Application'').

[3] The public comment file for 24X's Form 1 application (File No. 10–239) is available on the Commission's website at: *https://www.sec.gov/comments/10-239/10-239.htm.*

[4] 15 U.S.C. 78s(a)(1)(B).

[5] *See* Securities Exchange Act Release No. 95651 (Sept.1, 2022), 87 FR 54736 (Sept. 7, 2022).

[6] *See* letter from Brian Hyndman, President and Chief Executive Officer, Blue Ocean ATS, LLC, dated Sept. 28, 2022, to Vanessa A. Countryman, Secretary, Commission.

[7] *See* letter from James M. Brady, Katten Muchin Rosenman LLP, outside counsel for 24X National Exchange LLC, dated Oct. 18, 2022, to Vanessa A. Countryman, Secretary, Commission.

Application (''Amendment No. 1'').[8] The Commission is publishing this notice in order to solicit views of interested persons on 24X's Initial Form 1 Application, as amended by Amendment No. 1.

I. Description of 24X's Proposed Trading System

24X proposes to operate a fully automated electronic trading platform for the trading of listed NMS stocks pursuant to unlisted trading privileges.[9] 24X would not maintain a physical trading floor.[10] 24X proposes to allow trading in NMS stocks 24 hours a day, 7 days per week, 365 days a year.[11] 24X has proposed specific rules to govern trading during regular trading hours [12] as well as trading outside of regular trading hours.[13]

II. Amendment No. 1 to 24X's Initial Form 1 Application

In Amendment No. 1, 24X proposed several changes to its trading system and corporate governance, and provided additional financial statements. Among other things, Amendment No. 1 revised the corporate documents of 24X and its direct holding company; [14] amended 24X's proposed rules and User Manual; [15] filed additional financial statements for 24X's immediate holding company; [16] and provided additional information about the finances for 24X.[17]

III. Request for Written Comment

The Commission requests that interested persons provide written views and data with respect to 24X's Initial Form 1 Application, as amended by Amendment No. 1. 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 10–239 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 10–239. 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/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to 24X's Initial Form 1 Application, as amended by Amendment No. 1, filed with the Commission, and all written communications relating to the application 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number 10–239 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24380 Filed 11–8–22; 8:45 am]

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[8] Amendment No. 1 is available on the Commission's website at: *https://www.sec.gov/rules/other/2022/24x/24x-form-1.htm.*

[9] *See* Exhibit E, as amended by 24X's Amendment No. 1, at 1, 4.

[10] *Id.* at 1.

[11] *See* proposed 24X Rule 11.1 (describing the hours of trading and trading days for 24X).

[12] Regulation NMS Rule 600(b)(77) defines ''regular trading hours'' as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time . . .'' 24X proposes to define four different trading sessions. *See* proposed 24X Rules 1.5(b), defining the ''24X Market Session''; 1.5(k) defining the ''Core Market Session''; 1.5(v) defining the ''Post-market Session''; and 1.5(w) defining the ''Pre-Market Session''.

[13] *See e.g.,* proposed 24X Rule 11.16 (describing what orders are eligible for execution outside of regular trading hours).

[14] *See* Exhibits A and C, as amended by 24X's Amendment No. 1.

[15] *See* Exhibits B and E, as amended by 24's Amendment No. 1. For example, 24X has proposed to delete its proposal to trade fractional shares and to have a mirrored platform in London, as proposed in 24X's Initial Form 1 Application.

[16] *See* Exhibit D, as amended by 24'x Amendment No. 1.

[17] *See* Exhibit I, as amended by 24X's Amendment No. 1.

[18] 17 CFR 200.30–3(a)(71)(ii).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–498, OMB Control No. 3235–0556]

Proposed Collection; Comment Request; Extension: Rule 15b11–1/ Form BD–N

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 15b11–1 (17 CFR 240.15b11–1) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*) and Form BD–N (17 CFR 249.501b). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15b11–1 provides that a broker or dealer may register by notice pursuant to section 15(b)(11)(A) of the Exchange Act (15 U.S.C. 78*o*(b)(11)(A)) if it: (1) is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*); (2) is a member of the National Futures Association or another national securities association registered under section 15A(k) of the Exchange Act (15 U.S.C. 78*o*–3(k)); and (3) is not required to register as a broker or dealer in connection with transactions in securities other than security futures products. The rule also requires a broker or dealer registering by notice to do so by filing Form BD–N (17 CFR 249.501b) in accordance with the instructions to the form. In addition, the rule provides that if the information provided by filing the form is or becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on the form correcting such information.

The Commission staff estimates that the total annual reporting burden associated with Rule 15b11–1 and Form BD–N is approximately three hours, based on an average of zero initial notice registrations per year that each take approximately 30 minutes to complete, for zero hours, plus an average of eleven amendments per year that each take approximately fifteen minutes to complete, for 2.75 hours,

rounded up to three hours, for a total of three hours.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by January 9, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 3, 2022.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–24408 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96221; File No. SR–CBOE–2022–056]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Its Fees Schedule

November 3, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to update its Fees 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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 Fees Schedule, effective October 31, 2022.

Currently, pursuant to Footnote 32 of the Fees Schedule, transaction fees for Customer VIX orders executed during the Global Trading Hours (''GTH'') session are waived through December 31, 2022. The waiver was designed to encourage additional customer order flow in VIX options during GTH. However, the Exchange no longer believes the current waiver is having the designed effect and therefore the Exchange proposes to eliminate the current waiver prior to its expiration. Specifically, the proposed waiver will only apply through October 31, 2022 and effective trade date, November 1, 2022, standard Customer transaction fees for VIX orders executed during GTH will apply.[3] The Exchange proposes to update Footnote 32 of the Fees Schedule accordingly.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] 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)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that the proposed rule change to eliminate the waiver for Customer VIX orders executed during GTH is reasonable as the waiver was meant to be temporary and the Exchange no longer wishes to maintain it, nor is it required to maintain such waiver. As noted above the Exchange no longer believes the waiver is having the desired effect of encouraging additional Customer order flow in VIX options during GTH. The proposed change is also equitable and not unfairly discriminatory as it applies uniformly to all Customers.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because the proposed change applies uniformly to all Customers. Customers, like all other market participants, will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Transactions effected on October 31, 2022 from 7:15 p.m. to 11:59 p.m. CT have a trade date of November 1, 2022. *See* Cboe Options Rule 1.1 (Definitions) ''Business Day and Trading Day''. Transaction fees will therefore apply to Customer VIX transactions effected during the GTH session on calendar day October 31, 2022 from 7:15 p.m. CT to 11:59.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(5).

now be subject to standard applicable transaction fees for VIX during GTH. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to a product exclusively listed on the Exchange. Additionally, the Exchange notes it operates in a highly competitive market. In addition to Cboe Options, TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges, as well as off-exchange venues, where competitive products are available for trading. Based on publicly available information, no single options exchange has more than 18% of the market share of executed volume of options trades.[7] Therefore, no exchange possesses significant pricing power in the execution of option order flow. 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.''[8] 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'. . . .''.[9] Accordingly, the Exchange does not believe its proposed changes to the incentive programs impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f) of Rule 19b–4[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–CBOE–2022–056 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–CBOE–2022–056. 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–CBOE–2022–056 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Deputy Secretary.

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[7] See Cboe Global Markets, U.S. Options Market Volume Summary by Month (October 26, 2022), available at *http://markets.cboe.com/us/options/market_share/.*

[8] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[9] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96223; File No. SR–CBOE–2022–055]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Renew an Existing Pilot Program Until May 8, 2023

November 3, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to renew an existing pilot program until May 8, 2023. The text of the proposed rule change is provided below. (additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

(a)–(d) No change.

(e) Nonstandard Expirations Pilot Program.

(1)–(2) No change.

(3) Duration of Nonstandard Expirations Pilot Program. The Nonstandard Expirations Pilot Program shall be through [November 7, 2022]*May 8, 2023.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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

On September 14, 2010, the Securities and Exchange Commission (the ''Commission'') approved a Cboe Options proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month, and (b) the last trading day of the month.[5] On January 14, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Wednesday of month, other than those that coincide with an EOM.[6] On August 10, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Monday of month, other than those that coincide with an EOM.[7] On April 12, 2022, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled SPX options to also expire on Tuesday or Thursday.[8] On September 15, 2022, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled XSP options to similarly expire on Tuesday or Thursday.[9] Under the terms of the Nonstandard Expirations Pilot Program (''Program''), Weekly Expirations and EOMs are permitted on any broad-based index that is eligible for regular options trading. Weekly Expirations and EOMs are cash-settled and have European-style exercise. The proposal became effective on a pilot basis for a period of fourteen months that commenced on the next full month after approval was received to establish the Program [10] and was subsequently extended.[11] Pursuant to Rule 4.13(e)(3), the Program is scheduled to expire on November 7, 2022. The Exchange believes that the Program has been successful and well received by its Trading Permit Holders and the investing public during that the time that it has been in operation. The Exchange hereby proposes to extend the Program until May 8, 2023. This proposal does not request any other changes to the Program.

Pursuant to the order approving the establishment of the Program, two months prior to the conclusion of the pilot period, Cboe Options is required to submit an annual report to the Commission, which addresses the following areas: Analysis of Volume & Open Interest; Monthly Analysis of Weekly Expirations & EOM Trading Patterns; Provisional Analysis of Index Price Volatility; and, for SPX and XSP options specifically, certain market quality data.[12] The Exchange has submitted, under separate cover, the annual report in connection with the present proposed rule change. Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the Program,[13] and will make public any data and analyses it makes to the

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

[6] *See* Securities Exchange Act Release 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (order approving SR–CBOE–2015–106).

[7] *See* Securities Exchange Act Release 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (order approving SR–CBOE–2016–046).

[8] *See* Securities Exchange Act Release 94682 (April 12, 2022) (order approving SR–CBOE–2022–005).

[9] *See* Securities Exchange Act Release 95795 (September 21, 2022) (order approving SR–CBOE–2022–039).

[10] *See supra* note 7.

[11] *See* Securities Exchange Act Release 65741 (November 14, 2011), 76 FR 72016 (November 21, 2011) (immediately effective rule change extending the Program through February 14, 2013). *See also* Securities Exchange Act Release 68933 (February 14, 2013), 78 FR 12374 (February 22, 2013) (immediately effective rule change extending the Program through April 14, 2014); 71836 (April 1, 2014), 79 FR 19139 (April 7, 2014) (immediately effective rule change extending the Program through November 3, 2014); 73422 (October 24, 2014), 79 FR 64640 (October 30, 2014) (immediately effective rule change extending the Program through May 3, 2016); 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (extending the Program through May 3, 2017); 80387 (April 6, 2017), 82 FR 17706 (April 12, 2017) (extending the Program through May 3, 2018); 83165 (May 3, 2018), 83 FR 21316 (May 9, 2018) (SR–CBOE–2018–038) (extending the Program through November 5, 2018); 84534 (November 5, 2019), 83 FR 56119 (November 9, 2018) (SR–CBOE–2018–070) (extending the Program through May 6, 2019); 85650 (April 15, 2019), 84 FR 16552 (April 19, 2019) (SR–CBOE–2019–022) (extending the Program through November 4, 2019); 87462 (November 5, 2019), 84 FR 61108 (November 12, 2019) (SR–CBOE–2019–104) (extending the Program through May 4, 2020); 88673 (April 16, 2020), 85 FR 22507 (April 22, 2020) (SR–CBOE–2020–035) (extending the Program through November 2, 2020); 90262 (October 23, 2020) 85 FR 68616 (October 29, 2020) (SR–CBOE–2020–101); 91697 (April 28, 2021), 86 FR 23775 (May 4, 2021) (SR–CBOE–2021–026) (extending the Program through November 1, 2021); 93459 (October 28, 2021), 86 FR 60663 (November 3, 2021) (SR–CBOE–2021–063) (extending the Program through May 2, 2022); *and* 94800 (April 27, 2022) 87 FR 26248 (May 3, 2022) (SR–CBOE–2022–021 (extending the Program through November 7, 2022).

[12] The SPX and XSP options market quality data includes time-weighted relative quoted spreads, relative effective spreads and time-weighted bid and offer sizes, over sample periods determined by the Exchange and the Commission.

[13] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/non-standard-expiration-data.*

Commission under the Program in the future.

If, in the future, the Exchange proposes an additional extension of the Program, or should the Exchange propose to make the Program permanent (which the Exchange currently intends to do), the Exchange will submit an annual report (addressing the same areas referenced above and consistent with the order approving the establishment of the Program) to the Commission at least two months prior to the next bi-annual expiration date of the Program.[14] The Exchange will also make this report public. Any positions established under the Program will not be impacted by the expiration of the Program.

The Exchange believes there is sufficient investor interest and demand in the Program to warrant its extension. The Exchange believes that the Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any adverse market effects with respect to the Program.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the Program has been successful to date and states that it has not encountered any problems with the Program. The proposed rule change allows for an extension of the Program for the benefit of market participants. Additionally, the Exchange believes that there is demand for the expirations offered under the Program and believes that that Weekly Expirations and EOMs will continue to provide the investing public and other market participants increased opportunities to better manage their risk exposure.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Program, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Program prior to its expiration on November 7, 2022, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[14] The Exchange notes that from the Program's implementation in 2010 through 2014, the Program ran on a 14-month basis, and, in 2014, the Program was extended to run on a bi-annual pilot basis. *See* Securities Exchange Act Release No. 71836 (April 1, 2014), 79 FR 19139 (April 7, 2014) (SR–CBOE–2014–027). The Program continues to run on a bi-annual basis today.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2022–055 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–CBOE–2022–055. 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–CBOE–2022–055 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

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[23] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96225; File No. SR–BOX–2022–27]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow Electronic Multi-Leg Orders on BOX

November 3, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 26, 2022, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7240 (Complex Orders) to permit electronic Multi-Leg Orders on BOX. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, only Multi-Leg Orders defined as ''Complex Orders'' trade electronically on BOX.[5] The Exchange now proposes to allow Multi-Leg Orders that are not Complex Orders to trade electronically on BOX. As such, the Exchange proposes BOX Rule 7240(a)(10) which states that the term ''Multi-Leg Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, and for the purpose of executing a particular investment strategy, in a ratio that is less than one-to-three (.333) or greater than three-to-one (3.00). The Exchange notes that similar functionality is currently available at another options exchange and on the BOX Trading Floor.[6] Multi-Leg Orders involve the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, and for the purpose of executing a particular investment strategy.[7] In particular, Multi-Leg Orders are distinguished from Complex Orders by the ratio between each leg of the orders. Complex Orders have a ratio between the legs of equal to or greater than one-to-three and less than or equal to three-to-one. Multi-Leg Orders consist of strategies with ratios greater than three-to-one or less than one-to-three. Participants may determine that using Multi-Leg Orders is appropriate for their investment and hedging purposes. The Exchange again notes that multi-leg Qualified Open Outcry (''QOO'') Orders may currently be executed on the BOX Trading Floor.[8]

[5] Multi-Leg Orders and Complex Orders are distinguished by the ratio between each leg of the orders. Complex Orders have a ratio between the legs of equal to or greater than one to three and less than or equal to three to one. Multi-Leg Orders for these purposes consist of all other ratios between the legs.

[6] *See* Chicago Board of Options Exchange, Inc. (''CBOE'') Rule 1.1 (stating in the definition of Complex Order that ''the exchange determines on a class-by-class basis whether complex orders with ratios less than one-to-three (.333) or greater than three-to-one (3.00) (except for Index Combo orders) are eligible for electronic processing''). The Exchange notes that multi-leg Qualified Open Outcry (''QOO'') orders are currently traded on the BOX Trading Floor. *See* BOX Rule 7600(c).

[7] *See* BOX Rule 7600(c).

[8] Each component series of a multi-leg QOO order must be executed at a price that is equal to or better than the NBBO for that series subject to the exceptions of Rule 15010(b). Each component series of a multi-leg QOO order (1) may not trade through

Continued

The Exchange now proposes BOX Rule 7240(b)(2)(iii) to detail the trading priority requirements for Multi-Leg Orders. Proposed BOX Rule 7240(b)(2)(iii) provides that each component leg of a Multi-Leg Order will be required to trade (A) at or between the NBBO, and (B) at a price that is at least $0.01 better than any Public Customer order on the BOX Book.[9] The Exchange notes that the proposed trading priority for Multi-Leg Orders is similar to the priority for multi-leg QOO Orders on the BOX Trading Floor in that the priority rules for both order types are designed to protect Public Customer interest on the BOX Book.[10]

The following example illustrates the execution of a Multi-Leg Order:

Example 1—Execution of a Multi-Leg Order

BOX Leg A Book: 6.00—6.60 (no Public Customer interest)

BOX Leg B Book: 3.00—3.30 (no Public Customer interest)

Leg A NBBO: 6.00—6.60

Leg B NBBO: 3.00—3.30

Strategy: Buy 4 A Calls, Sell 1 B Call

The Exchange receives a Multi-Leg Order for the purchase of the strategy at a net price of 22.80, buying 4 A Calls and selling 1 B Call. Since the order can be executed at a price that is at or between the NBBO for each component series, and at a price that is at least $0.01 better than any Public Customer order on the BOX Book, the legs of the Multi-Leg Order will be executed at 6.45 for leg A and 3.00 for leg B to achieve the net price of 22.80 (6.45 times 4 equals 25.80 less 3.00 equals 22.80).

Example 2—Execution of a Multi-Leg Order

BOX Leg A Book: 6.00—6.60 (no Public Customer interest)

BOX Leg B Book: 3.00—3.30 (Public Customer to sell at 3.30)

Leg A NBBO: 6.00—6.60

Leg B NBBO: 3.00—3.30

Strategy: Buy 4 A Calls, Sell 1 B Call

The Exchange receives a Multi-Leg Order for the purchase of the strategy at a net price of 20.70, buying 4 A Calls and selling 1 B Call. Since there is a Public Customer Order on the BOX Book for Leg B to sell at 3.30 and the Multi-Leg Order can only be purchased at a net price of 20.70 if leg A is purchased at 6.00 (6.00 times 4 equals 24.00) and leg B is sold at 3.30 (24.00 less 20.70 equals 3.30), the Multi-Leg Order will be rejected.

The Exchange proposes further, in proposed Rule 7240(b)(1), that the minimum increment for bids and offers on electronic Multi-Leg Orders will be $0.01 and each leg of an electronic Multi-Leg Order may be executed in one cent increments, regardless of the minimum increments otherwise applicable to the individual legs of the order.[11] The Exchange notes that electronic trading of Multi-Leg Orders in one cent increments was recently established on another exchange.[12] Further, the Exchange notes that Complex Orders are currently traded electronically in one cent increments on BOX[13] and the proposed change will allow electronic trading of Multi-Leg Orders in one cent increments that merely have a different ratio between the legs as compared to Complex Orders. The Exchange notes it is not proposing to extend the Complex Order priority afforded to Complex Orders to the proposed Multi-Leg Orders.[14] As discussed above, proposed Rule 7240(b)(2)(iii) will require that each component leg execute at or between the NBBO, and at a price that is least $0.01 better than any Public Customer order on the BOX Book.

The Exchange understands that there may be some concerns that if the ratios of multi-legged strategies, where each component leg is allowed to trade in one cent increments, are too greatly expanded, market participants will, for example, enter multi-legged strategies designed primarily to trade orders in a class in pennies that cannot otherwise execute as simple orders in that class in pennies. The Exchange believes it is highly unlikely that market participants will submit non-bona-fide trading strategies with larger ratios just to trade in penny increments. Adding a single leg to a larger order just to obtain penny pricing may further reduce execution opportunities for such an order because it may be less likely that sufficient contracts in the appropriate ratio would be available and because it is unlikely that other market participants would be willing to execute against an order that is not a bona-fide trading strategy. Further, the Exchange notes that all option series traded on BOX can currently trade in penny increments in the Price Improvement Period (''PIP'') regardless of the minimum increment otherwise applicable.[15] Lastly, the Exchange notes that pursuant to BOX Rule 3000(a), no Participant shall engage in acts or practices inconsistent with just and equitable principles of trade and non-bona-fide trading strategies may constitute acts or practices inconsistent with just and equitable principles of trade.

The Exchange will announce the implementation of Multi-Leg Orders by Informational Circular at least 48 hours prior to deployment of this functionality, as the Exchange believes that 48 hours of notice is adequate for Participants.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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

any equal or better priced Public Customer bids or offers on the BOX Book for that series or any non-Public Customer bids or offers on the BOX Book for that series that are ranked ahead of or equal to better priced Public Customer bids or offers, and (2) may not trade through any non-Public Customer bids or offers for that series on the BOX Book that are priced better than the proposed execution price. The initiating side of a multi-leg QOO order must execute against equal or better priced interest on the BOX Book as provided by Rules 7600(d) and (h) before executing against the contra-side QOO order. *Id.*

[9] Proposed BOX Rule 7240(b)(1) states that the minimum increment for bids and offers on Multi-Leg Orders, with a ratio between the legs of less than one-to-three or greater than three-to-one, is $0.01 and the leg(s) of a Multi-Leg Order may be executed in one cent increments, regardless of the minimum increments otherwise applicable to the individual legs of the order.

[10] *See* BOX Rule 7600(c). The priority rules of multi-leg QOO Orders and electronic Multi-Leg Orders differ in that a component leg of a multi-leg QOO Order must trade against any Public Customer interest and any non-Public Customer interest ranked equal to or better than the Public Customer interest at the same price as the contra side of the multi-leg QOO order, whereas each component leg of an electronic Multi-Leg Order must improve any Public Customer order on the BOX Book or the order will be rejected. The proposed electronic Multi-Leg Order priority is designed to be consistent with other electronic order types on BOX. *See* BOX Rule 7110.

[11] *See* proposed Rule 7240(b)(1).

[12] *See* Securities Exchange Act Release No. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR–CBOE–2021–046).

[13] *See* BOX Rule 7240(b)(1).

[14] *See* BOX Rule 7240(b)(2). The Exchange also notes that it will not generate Legging Orders for Multi-Leg Orders. Legging Orders are only generated on BOX for Complex Orders with two legs and with a ratio of one-to-one. *See* BOX Rule 7240(c)(1).

[15] *See* BOX Rules 7150(f)(2) and 7150(k).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and benefit investors because another exchange has established both electronic and open outcry execution of Multi-Leg Orders, regardless of ratio.[18] The Exchange believes that, with the proposed changes discussed herein, market participants will no longer have to trade Multi-Leg Orders electronically on the one other exchange that offers this functionality and could instead select the exchange that is most convenient, offers the best fees, and/or provides better trade execution services. Further, the Exchange believes that market participants may find it more convenient or cost effective to access one exchange over another and may choose to concentrate their volume at a particular exchange in order to maximize the impact of volume-based incentive programs. As such, the Exchange believes that the proposed change removes impediments to and perfects the mechanism of a free and open market and benefits investors.

The Exchange believes that the proposed change perfects the mechanism of a free and open market and protects investors and the public interest by continuing to protect the priority of Public Customers as evidenced by the requirements detailed in proposed Rule 7240(b)(2)(iii). In particular, the execution of each leg of a Multi-Leg Order (i) will be at a price that is at least $0.01 better than any Public Customer order on the BOX Book; and (ii) will be at or between the NBBO. The Exchange notes that another exchange has established multi-leg electronic trading, regardless of the ratios between the component legs. Therefore, the proposed rules perfect the mechanism of a free and open market and protect investor and the public interest by increasing efficiency and competitive pricing by establishing Multi-Leg Orders on BOX which creates intermarket competition between exchanges.

The Exchange also believes that establishing electronic Multi-Leg Orders benefits investors and provides a means for market participants to execute Multi-Leg Orders outside of the BOX Trading Floor, as multi-leg QOO Orders are currently the only way to execute Multi-Leg Orders on BOX. Participants may find it more convenient and efficient to execute Multi-Leg Orders electronically because they do not require manual handling or the services of a Floor Broker.

Additionally, the Exchange believes that electronic trading of Multi-Leg Orders in one cent increments will remove impediments to and perfect the mechanism of a free and open market and benefit investors, because it will provide Participants with the same pricing flexibility with respect to all of their Multi-Leg Orders on BOX (*i.e.* each component leg of Complex Orders already trades in one cent increments). Participants may determine that investment and hedging strategies with ratios greater than three-to-one or less than one-to-three are appropriate for their investment purposes, and the Exchange believes it will benefit Participants if they have additional flexibility to price their investment and hedging strategies to achieve their desired investment results. Further, the Exchange believes that the proposed change with respect to the minimum increment requirement may enable Participants to execute their customers' Multi-Leg Orders at better prices, rather than executing at prices that fit within the confines of a larger increment. The Exchange also believes that allowing the legs of Multi-Leg Orders to trade in one cent increments will help protect investors by allowing Participants to receive better execution prices and improve their ability to execute at or within the NBBO. Further, the Exchange believes that requiring each leg of a Multi-Leg Order to execute at a price that is at least $0.01 better than any Public Customer order on the BOX Book continues to protect Public Customer interest and thus perfects the mechanism of a free and open market and protects investors and the public interest.

The Exchange believes the proposed changes will increase opportunities for execution of Multi-Leg Orders and lead to tighter spreads on BOX, which will benefit investors. The Exchange also believes that the proposed rule change is designed to not permit unfair discrimination among market participants, as all market participants may trade electronic Multi-Leg Orders, and the priority requirements apply to electronic Multi-Leg Orders of all market participants.

Lastly, the Exchange notes that the proposed changes discussed herein are not novel. The trading of multi-leg QOO orders in one cent increments was recently adopted by BOX.[19] Further, as noted herein, another exchange has established both electronic and open outcry execution of all Multi-Leg Orders, regardless of ratio, and the execution of these Multi-Leg Orders in one cent increments.[20]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the same manner to all Participants. The Exchange notes that all Participants, regardless of account type, will have the ability to submit electronic Multi-Leg Orders with any ratio in the increments permitted by the proposed rule change. Further, the proposed rule change will provide all Participants with an additional means for trading Multi-Leg Orders on BOX. The Exchange believes the proposed rule change does not impose any undue burden on intermarket competition and may, on the contrary, promote competition, as another exchange currently offers the proposed functionality.[21] As discussed herein, trading the legs of Multi-Leg Orders in one cent increments is currently allowed for multi-leg QOO orders on the BOX Trading Floor. Lastly, the Exchange notes that the remaining exchanges are free to adopt similar rules to those proposed here. As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (a) significantly affect the protection of investors or the public interest; (b) impose any significant burden on competition; and (c) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

[18] *See supra,* note 10. [sic]

[19] *See* Securities Exchange Act Release No. 95173 (June 28, 2022), 87 FR 39880 (July 5, 2022) (SR–BOX–2022–21).

[20] *See supra,* note 10. [sic]

[21] *Id. See also* CBOE Rules 1.1 and 5.33(f).

19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that because multi-leg orders with a ratio less than one-to-three or greater than three-to-one currently may trade electronically in $0.01 increments on another exchange, waiver of the operative delay will allow the Exchange to immediately offer market participants the choice of another execution venue for the electronic trading of Multi-Leg Orders. The Exchange states that market participants may find it more convenient and efficient to execute Multi-Leg Orders electronically because they do not require manual handling or the services of a Floor Broker. The Exchange further states that the proposal will protect the priority of Public Customer orders by requiring each component leg of an electronically traded Multi-Leg Order to trade at a price that is at least $0.01 better than any Public Customer order on the BOX Book, in addition to trading at a price that is at or between the NBBO for the series. In addition, the Exchange states that allowing electronically traded Multi-Leg Orders to trade in $0.01 increments will provide market participants with additional flexibility in pricing their investment and hedging strategies to achieve their desired investment results.

The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposal will provide investors with an additional venue for electronically trading complex orders with a ratio less than one-to-three or greater than three-to-one. The Commission believes that proposal does not raise new or novel regulatory issues because another options exchange currently provides for the electronic trading of complex orders with a ratio less than one-to-three or greater than three-to-one.[25] The proposal protects the priority of resting Public Customer orders by requiring each component leg of a Multi-Leg Order to be executed at a price that is at least $0.01 better than any Public Customer Order on the BOX Book.[26] This requirement is consistent with the rules of another options exchange.[27] In addition, as discussed above, the Exchange states that it is highly unlikely that a market participant would submit a complex order with a ratio less than one-to-three or greater than three-to-one that is not a bona fide trading strategy solely for the purpose of trading in $0.01 increments. The Exchange believes that there would be reduced execution opportunities for such an order because it is unlikely that other market participants would be willing to trade against an order that is not a bona-fide trading strategy. In addition, the Exchange states that all option series may trade in $0.01 increments in the PIP auction.[28] The Exchange further states that submitting an order that is not a bona-fide trading strategy may constitute an act or practice inconsistent with just and equitable principles of trade, in violation of Exchange Rule 3000(a). For these reasons, the Commission designates the proposal operative upon filing.[29]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2022–27.

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–BOX–2022–27. 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–BOX–2022–27, and should be submitted on or before November 30, 2022.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] *See* Securities Exchange Act Release No. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (order approving File No. SR–CBOE–2021–046). *See also* Cboe Rules 1.1 (stating, in the definition of complex order, that ''the Exchange determines on a class-by-class basis whether complex orders with ratios less than one-to-three (.333) or greater than three-to-one (3.00) (except for Index Combo orders) are eligible for electronic processing'').

[26] *See* proposed Exchange Rule 7240(b)(2)(iii).

[27] *See* Cboe Rule 5.33(f)(2)(iv)(b) (stating that if a complex order has a ratio less than one-to-three (.333) or greater than three-to-one (3.00), the component(s) of the complex order for the leg(s) with a Priority Customer order at the BBO must execute at a price that improves the price of that Priority Customer order(s) on the Simple Book by at least one minimum increment).

[28] *See* BOX Rules 7150(f)(2) and 7150(k).

[29] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24413 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96226; File No. SR–ICEEU–2022–021]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Rate of Return on Euro Cash Margin and Guaranty Fund Deposits

November 3, 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 October 25, 2022, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2)[4] thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to amend the rate of return paid by the Clearing House on Euro (''EUR'') cash margin and Guaranty Fund deposits. The proposed amendments do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule changes is for ICE Clear Europe to its rate of return paid on EUR cash margin and Guaranty Fund deposits applicable to all Clearing Members for house and customer accounts. ICE Clear Europe pays a rate of return on cash deposited by Clearing Members in respect of margin and Guaranty Fund requirements referred to as the ICE Deposit Rate (the ''IDR''). The IDR is calculated daily and applied to cash balances held at the close of business on the previous business day in respect of US Dollar (''USD''), EUR and Pound Sterling (''GBP'') deposits. The IDR is calculated as the net income earned on cash deposits in the relevant currency (positive or negative) less a charge or spread.

ICE Clear Europe is proposing to reduce the spread for EUR balances from 25 bps to 15 bps. The spread for USD balances and GBP balances would remain unchanged at 15 bps and 12 bps respectively. ICE Clear Europe has determined that in light of current financial market conditions, including central bank rates for Euro deposits and repo rates available in the market, it is appropriate to increase the net IDR on EUR balances (through a lower spread). ICE Clear Europe believes the change would better align the relative costs and benefits of using EUR to cover margin and Guaranty Fund obligations with otherwise available market rates and facilitate the Clearing House's ability to maintain adequate EUR balances for liquidity management purposes.

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act[6] and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act[7] requires that ''[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants''. ICE Clear Europe believes that the IDR, as proposed to be amended, would be reasonable and appropriate in light of current market conditions, including available repo rates and central bank rates for EUR deposits available in the market. The proposed modifications would apply to all Clearing Members and other market participants who hold cash balances in EUR. Further, ICE Clear Europe has determined that the revised spread would better align the relative costs and benefits of using EUR with otherwise available market rates for EUR balances and thereby facilitate the Clearing House's liquidity management with regard to EUR balances. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.[8]

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act[9] which requires, among other things, that ''[t]he rules of a clearing agency [. . .] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency''. As noted above, the EUR spread, as proposed to be amended, would apply on a currency level and would apply to all Clearing Members. The amendments would not otherwise change the ability of Clearing Members to post EUR in satisfaction of their obligations. As a result, the amendments would not result in any unfair discrimination among Clearing Members in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.[10]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. Although ICE Clear Europe is revising a certain spread applied to the IDR, as set forth herein, it believes such changes are appropriate

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1(b)(3)(F).

to align the costs and benefits of using EUR with otherwise available market rates for EUR balances, thereby facilitating the Clearing House's ability to maintain EUR balances for liquidity management purposes. Further, as discussed above, the change to the spread would be applied equally to all Clearing Members who deposit cash balances in EUR. ICE Clear Europe does not believe that the amendments would adversely affect the ability of such Clearing Members or other market participants generally to access clearing services. Further, ICE Clear Europe believes that the amendments would not otherwise affect competition among Clearing Members, adversely affect the market for clearing services or limit market participants' choices for obtaining clearing services. As a result, ICE Clear Europe does not believe the amendments would have any impact or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments 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 has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f)(2) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2022–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2022–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2022–021 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24414 Filed 11–8–22; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96222; File No. SR–CBOE–2022–054]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of its SPXPM Pilot Program

November 3, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to extend the operation of its SPXPM pilot program. The text of the proposed rule change is provided below. (additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

* * * * *

Interpretations and Policies

.01–.12 No change.

.13 In addition to A.M.-settled S&P 500 Stock Index (''SPX'') options approved for trading on the Exchange pursuant to Rule 4.13, the Exchange may also list options on SPX whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (P.M.-settled third Friday-of-the-month SPX options series). The Exchange may also list options on the Mini-SPX Index (''XSP'') and Mini-RUT Index (''MRUT'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled''). P.M.-settled third Friday-of-the-month SPX options series and P.M.-settled XSP and MRUT options will be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

listed for trading for a pilot period ending [November 7, 2022]*May 8, 2023.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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

On February 8, 2013, the Securities and Exchange Commission (the ''Commission'') approved a rule change that established a Pilot Program that allows the Exchange to list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''SPXPM'').[5] On July 31, 2013, the Commission approved a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini-SPX Index (''XSP'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled XSP'').[6] On February 5, 2021, the Commission approved a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini Russell 2000 Index (''MRUT'' or ''Mini-RUT'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled MRUT'')[7] (together, SPXPM, P.M.-settled XSP, and P.M.-settled MRUT to be referred to herein as the ''Pilot Products'').[8] The Exchange has extended the pilot period numerous times, which, pursuant to Rule 4.13.13, is currently set to expire on the earlier of November 7, 2022 or the date on which the pilot program is approved on a permanent basis.[9] The Exchange hereby proposes to further extend the end date of the pilot period to May 8, 2023.[10]

During the course of the Pilot Program and in support of the extensions of the Pilot Program, the Exchange submits reports to the Commission regarding the Pilot Program that detail the Exchange's experience with the Pilot Program, pursuant to the SPXPM Approval Order,[11] the P.M.-settled XSP Approval Order,[12] and the P.M.-settled MRUT Approval Order.[13] Specifically, the Exchange submits annual Pilot Program reports to the Commission that contain an analysis of volume, open interest, and trading patterns. The analysis examines trading in Pilot Products as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity. The Exchange also submits periodic interim reports that contain some, but not all, of the information contained in the annual reports. In providing the annual and periodic interim reports (the ''pilot reports'') to the Commission, the Exchange has previously requested confidential treatment of the pilot reports under the Freedom of Information Act (''FOIA'').[14]

The pilot reports both contain the following volume and open interest data:

(1) monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

The annual reports also contain (or will contain) the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, S&P 500 and RUT index options traded on Cboe Options, as well as the following analysis of trading patterns in the Pilot Products options series in the Pilot Program:

(1) a time series analysis of open interest; and

(2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

(1) a comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the Cboe Volatility Index (VIX), is provided; and

(2) a calculation of share volume for a sample set of the component securities representing an upper limit on share

[5] *See* Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR–CBOE–2012–120) (the ''SPXPM Approval Order''). Pursuant to Securities Exchange Act Release No. 80060 (February 17, 2017), 82 FR 11673 (February 24, 2017) (SR–CBOE–2016–091), the Exchange moved third-Friday P.M.-settled options into the S&P 500 Index options class, and as a result, the trading symbol for P.M.-settled S&P 500 Index options that have standard third Friday-of-the-month expirations changed from ''SPXPM'' to ''SPXW.'' This change went into effect on May 1, 2017, pursuant to Cboe Options Regulatory Circular RG17–054.

[6] *See* Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR–CBOE–2013–055) (the ''P.M.-settled XSP Approval Order'').

[7] *See* Securities Exchange Act Release No. 91067 (February 5, 2021), 86 FR 9108 (SR–2020–CBOE–116) (the ''P.M.-settled MRUT Approval Order'').

[8] For more information on the Pilot Products or the Pilot Program, *see* the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order.

[9] *See* Securities Exchange Act Release Nos. 71424 (January 28, 2014), 79 FR 6249 (February 3, 2014) (SR–CBOE–2014–004); 73338 (October 10, 2014), 79 FR 62502 (October 17, 2014) (SR–CBOE–2014–076); 77573 (April 8, 2016), 81 FR 22148 (April 14, 2016) (SR–CBOE–2016–036); 80386 (April 6, 2017), 82 FR 17704 (April 12, 2017) (SR–CBOE–2017–025); 83166 (May 3, 2018), 83 FR 21324 (May 9, 2018) (SR–CBOE–2018–036); 84535 (November 5, 2018), 83 FR 56129 (November 9, 2018) (SR–CBOE–2018–069); 85688 (April 18, 2019), 84 FR 17214 (April 24, 2019) (SR–CBOE–2019–023); 87464 (November 5, 2019), 84 FR 61099 (November 12, 2019) (SR–CBOE–2019–107); 88674 (April 16, 2020), 85 FR 22479 (April 22, 2020) (SR–CBOE–2020–036); 90263 (October 23, 2020), 85 FR 68611 (October 29, 2020) (SR–CBOE–2020–100); 91698 (April 28, 2021), 86 FR 23761 (May 4, 2021) (SR–CBOE–2021–027); 93455 (October 28, 2021), 86 FR 60660 (November 3, 2021) (SR–CBOE–2021–062); *and* 94799 (April 27, 2022), 87 FR 26244 (May 3, 2022) (SR–CBOE–2022–019).

[10] The Exchange notes that it is currently drafting a proposal to make the Pilot Program for SPXPM permanent. The Exchange intends to submit the proposal to make the Pilot Program for SPXPM permanent prior to the proposed May 8, 2023 Pilot Program expiration date. Following the Commission's review and approval of the Exchange's proposal, the Exchange intends to file a similar proposal(s) to make its Pilot Program for the other Pilot Products permanent.

[11] *See supra* note 5.

[12] *See supra* note 6.

[13] *See supra* note 7.

[14] 5 U.S.C. 552.

trading that could be attributable to expiring in-the-money series. The data includes a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to extend the Pilot Program, the Exchange will continue to abide by the reporting requirements described herein, as well as in the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order.[15] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the Pilot Program,[16] and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future.

The Exchange proposes the extension of the Pilot Program in order to continue to give the Commission more time to consider the impact of the Pilot Program. To this point, Cboe Options believes that the Pilot Program has been well-received by its Trading Permit Holders and the investing public, and the Exchange would like to continue to provide investors with the ability to trade SPXPM and P.M.-settled XSP and MRUT options. All terms regarding the trading of the Pilot Products shall continue to operate as described in the SPXPM Approval Order, the P.M.-settled XSP Approval Order, and the P.M.-settled MRUT Approval Order. The Exchange merely proposes herein to extend the term of the Pilot Program to May 8, 2023.

[15] Pursuant to Securities Exchange Act Release No. 75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079), the Exchange added SPXPM and P.M.-settled XSP options to the list of products approved for trading during Extended Trading Hours (''ETH''). The Exchange will also include the applicable information regarding SPXPM and P.M.-settled XSP options that trade during ETH in its annual and interim reports.

[16] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-spxpm-data*.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the Pilot Program will continue to provide greater opportunities for investors. Further, the Exchange believes that it has not experienced any adverse effects or meaningful regulatory concerns from the operation of the Pilot Program. As such, the Exchange believes that the extension of the Pilot Program does not raise any unique or prohibitive regulatory concerns. Also, the Exchange believes that such trading has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index and RUT index. The extension of the Pilot Program will continue to provide investors with the opportunity to trade the desirable products of SPXPM and P.M.-settled XSP and MRUT, while also providing the Commission further opportunity to observe such trading of the Pilot Products.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all Cboe Options market participants, and the Pilot Products will be available to all Cboe Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Program to warrant its extension. The Exchange believes that, for the period that the Pilot Program has been in operation, it has provided investors with desirable products with which to trade. Furthermore, the Exchange believes that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Program. The Exchange further does not believe that the proposed extension of the Pilot Program will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on Cboe Options. To the extent that the continued trading of the Pilot Products may make Cboe Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become Cboe Options market participants.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed under Rule 19b–4(f)(6)[22] normally does not become operative prior to 30 days after the date of the filing. However, Rule

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6).

19b–4(f)(6)(iii)[23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Program prior to its expiration on November 7, 2022, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Program. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2022–054 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–CBOE–2022–054. 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–CBOE–2022–054 and should be submitted on or before November 30, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24411 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96136A; File No. SR–FICC–2022–006]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change To Increase the Minimum Required Fund Deposit for Government Securities Division Netting Members and Sponsoring Members, and Make Other Changes; Correction

November 3, 2022.

AGENCY: Securities and Exchange Commission.

ACTION: Order; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** on October 28, 2022, concerning an Order Granting Approval of Proposed Rule Change To Increase the Minimum Required Fund Deposit for Government Securities Division Netting Members and Sponsoring Members, and Make Other Changes. The document contained a typographical error.

FOR FURTHER INFORMATION CONTACT: Naomi P. Lewis, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, (202) 551–5400.

Correction

In the **Federal Register** of October 28, 2022, in FR Doc. 2022–23482, on page 65271, in the third column, in the last paragraph, on the 51st and 52nd lines, remove the reference to ''as modified by Partial Amendment No. 1,''.

Dated: November 3, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24428 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34747; File No. 812–15383]

J.P. Morgan Exchange-Traded Fund Trust, et al.

November 3, 2022.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act

and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order (''Order'') that permits: (a) The Funds (as defined below) to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value; (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; and (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units. The relief in the Order would incorporate by reference terms and conditions of the same relief of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

APPLICANTS: J.P. Morgan Exchange-Traded Fund Trust, J.P. Morgan Investment Management Inc. and JPMorgan Distribution Services, Inc.

FILING DATES: The application was filed on September 6, 2022 and amended on October 27, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving 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 28, 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.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Gregory S. Samuels, J.P. Morgan Investment Management Inc., 4 New York Plaza, New York, New York 10004; Jon S. Rand, Esq., Allison M. Fumai, Esq., Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, or Terri G. Jordan, Branch Chief, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' amended and restated application, dated October 27, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://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.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–24397 Filed 11–8–22; 8:45 am]

BILLING CODE 8011–01–P

[1] Natixis ETF Trust II, et al., Investment Company Act Rel. Nos. 33684 (November 14, 2019) (notice) and 33711 (December 10, 2019) (order).

DEPARTMENT OF STATE

[Public Notice 11912]

30-Day Notice of Proposed Information Collection: Risk Analysis and Management (RAM) OMB Control Number 1405–0204

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to December 9, 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: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Annura N. Murtadha, US Department of State, Office of Risk Analysis and Management, 2401 E St. NW, L408, Washington, DC 20037; who can be reached on 202–657–6020 or at *MURTADHAAN@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Risk Analysis and Management.
- *OMB Control Number:* 1405–0204.
- *Type of Request:* Extension or Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, Office of the Procurement Executive (A/OPE).
- *Form Number:* DS–4184.
- *Respondents:* Potential Contractors and Grantees.
- *Estimated Number of Respondents:* 500.
- *Estimated Number of Responses:* 500.
- *Average Time per Response:* 1 hour 30 minutes.
- *Total Estimated Burden Time:* 750 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The information collected from individuals and organizations is specifically used to conduct screening to ensure that Foreign Assistance-

funded activities do not provide support to entities or individuals deemed to be a risk to national security.

Methodology

The State Department has implemented a Risk Analysis and Management Program to vet potential contractors and grantees seeking funding from the Department of State to mitigate the risk that such funds might benefit entities or individuals who present a national security risk. To conduct this vetting program the Department collects information from contractors, subcontractors, grantees and sub-grantees regarding their directors, officers and/or key employees through mail, fax or electronic submission. The information collected is compared to information gathered from commercial, public, and U.S. government databases to determine the risk that the applying organization, entity or individual might use Department funds or programs in a way that presents a threat to national security. This program is consistent with Section 7034(f) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022 (Div. K, Pub. L. 117–103) and similar provisions in prior appropriations acts.

Michael Derrios,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. 2022–24436 Filed 11–8–22; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1326]

FAA Contract Tower Competitive Grant Program; FY 2023 Funding Opportunity

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

ACTION: Notice of funding opportunity.

SUMMARY: The Department of Transportation (DOT), Federal Aviation Administration (FAA), announces the opportunity to apply for $20 million in FY 2023 Airport Infrastructure Grant funds for the FAA Contract Tower (FCT) Competitive Grant Program, made available under the Infrastructure Investment and Jobs Act of 2021, herein referred to as the Bipartisan Infrastructure Law (BIL). The purpose of the FCT Competitive Grant Program is to make annual grants available to eligible airports for airport-owned airport traffic control tower (ATCT) projects that address the aging infrastructure of the nation's airports. In addition, the FCT Competitive Grant Program will align with DOT's Strategic Framework FY2022–2026 at *www.transportation.gov/administrations/office-policy/fy2022-2026-strategic-framework.*

DATES: Airport sponsors that wish to be considered for FY 2023 FCT Competitive Grant Program funding should submit an application that meets the requirements of this NOFO as soon as possible, but no later than 5:00 p.m. Eastern time, December 6, 2022.

ADDRESSES: Submit applications electronically at *https://www.faa.gov/bil/airport-infrastructure/fct* per instructions in this NOFO.

FOR FURTHER INFORMATION CONTACT: Robin K. Hunt, Manager, BIL Implementation Team, FAA Office of Airports, at (202)267–3263 or our FAA BIL email address: *9-ARP-BILAirports@faa.gov.*

SUPPLEMENTARY INFORMATION: The FY 2023 FCT Competitive Grant Program will be implemented consistent with law and in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve job opportunities by focusing on high labor standards, strengthen infrastructure resilience to all hazards, including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners. Airports that submitted projects under the FY 2023 Airport Terminal Program NOFO (87 FR 58897), that meet the eligibility requirements outlined in C.1., do not need to resubmit under this NOFO.

A. Program Description

BIL established the FCT Competitive Grant Program, a competitive discretionary grant program, which provides $20 million in grant funding annually for five years (Fiscal Years 2022–2026) to sustain, construct, repair, improve, rehabilitate, modernize, replace, or relocate nonapproach control towers; acquire and install air traffic control, communications, and related equipment to be used in those towers; and construct a remote tower certified by the FAA including acquisition and installation of air traffic control, communications, or related equipment. This program also supports the President's goals to mobilize American ingenuity to build modern infrastructure and an equitable, clean energy future. In support of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009), the FAA encourages applicants to consider how the project will address the challenges faced by individuals in underserved communities and rural areas, as well as accessibility for persons with disabilities.

The FCT Competitive Grant Program falls under the project grant authority for the Airport Improvement Program (AIP) in 49 United States Code (U.S.C.) § 47104. Per 2 CFR part 200—*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* the AIP Federal Assistance Listings Number is 20.106, with the objective to assist eligible airports in the development and improvement of a nationwide system that adequately meets the needs of civil aeronautics. The FY 2023 FCT Competitive Grant Program will be implemented consistent with the BIL and in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve opportunities for good-paying jobs with the free and fair choice to join a union by focusing on high labor standards, strengthen infrastructure resilience to all hazards, including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners.

Consistent with statutory criteria and Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619), the FAA also seeks to fund projects under the FCT Competitive Grant Program that reduce greenhouse gas emissions and are designed with specific elements to address climate change impacts. Specifically, the FAA is looking to award projects that align with the President's greenhouse gas reduction goals, promote energy efficiency, support fiscally responsible land use and transportation efficient design, support development compatible with the use of sustainable aviation fuels and technologies, increase climate resilience, incorporate sustainable and less emissions-intensive pavement and construction materials as allowable, and reduce pollution.

The FAA will also consider projects that advance the goals of the Executive Orders listed under Section E.2.

B. Federal Award Information

This NOFO announces up to $20,000,000, subject to availability of funds, for the Fiscal Year 2023 FCT Competitive Grant Program. The FCT Competitive Grant Program is a $100 million grant program, distributed as $20 million annually for five years (Fiscal Years 2022, 2023, 2024, 2025, and 2026).

The FAA will consider projects at an airport-owned Airport Traffic Control Tower (ATCT) that sustain, construct, repair, improve, rehabilitate, modernize, replace, or relocate nonapproach control towers; acquire and install air traffic control, communications, and related equipment to be used in those towers; or construct a remote tower certified by the FAA including acquisition and installation of air traffic control, communications, or related equipment. To date, there are no certified remote tower systems. The FAA is currently evaluating this technology to assess its suitability for use in the National Airspace System. In addition, these projects will also be evaluated based on overall impact on the National Airspace System, including age of facility, operational constraints, nonstandard facilities, or new FCT entrant requirements. This also includes applicable Executive Orders as listed in Section E.2.

The FAA intends to publish a NOFO annually to announce additional funding made available, expected to be $20 million per year, for Fiscal Years 2024–2026.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants are those airport sponsors approved in the FAA's contract tower program or contract tower cost share program as defined in 49 U.S.C. 47124, and normally eligible for Airport Improvement Program (AIP) discretionary grants as defined in 49 U.S.C. 47115. The eligible applicants include a public agency, private entity, state agency, Indian Tribe, or Pueblo owning a public-use National Plan of Integrated Airport Systems (NPIAS) airport, the Secretary of the Interior for Midway Island airport, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

2. Cost Sharing or Matching

No cost sharing or matching is required. The Federal cost share of the FCT Competitive Grant Program is 100 percent for all airports eligible to receive grants.

3. Project Eligibility

All projects funded from the FCT Competitive Grant Program must be:

i. Airport-owned ATCT projects that sustain, construct, repair, improve, rehabilitate, modernize, replace, or relocate nonapproach control towers;

ii. Projects that acquire and install air traffic control, communications, and related equipment to be used in those towers; or

iii. Projects to construct a remote tower [1] certified by the FAA, including acquisition and installation of air traffic control, communications, or related equipment.

D. Application and Submission Information

1. Address to Request Application Package

An application for FCT Competitive Grant Program projects, FAA Form 5100–144, *Bipartisan Infrastructure Law, Airport Terminal and Tower Project Information,* can be found at: *https://www.faa.gov/bil/airport-infrastructure/fct.*

Direct all inquiries regarding applications to the appropriate Regional Office (RO) or Airports District Office (ADO), or to the BIL Team. RO/ADO contact information is available at *https://www.faa.gov/about/office_org/headquarters_offices/arp/offices/regional_offices,* The BIL Team may be contacted at: *9-ARP-BILAirports@faa.gov.*

2. Content and Form of Application Submission

Applicants are required to submit information contained in FAA Form 5100–144, *Bipartisan Infrastructure Law, Airport Terminal and Tower Project Information.* When completing this form, applicants should provide the information required in Section E.1., Criteria, of this NOFO, as applicable to the project. Application instructions and the form can be found at: *https://www.faa.gov/bil/airport-infrastructure/fct.*

All applications must be submitted electronically following the instruction on the form. Once the form is complete, save a copy of the form electronically to your files for future reference. Next, scroll to the bottom of the form and press the ''submit'' button. This action will generate an email for you to send to the FAA BIL Team for review and evaluation. If the submit button did not automatically generate an email, you can also manually email your saved open field form to: *9-ARP-BILAirports@faa.gov.*

Applicants selected to receive an FCT Competitive Grant Program grant will then be required to follow AIP grant application procedures prior to award, which include meeting all prerequisites for funding, and submission of Standard Form SF–424, *Application for Federal Assistance,* and FAA Form 5100–100, *Application for Development Projects.*

Airports covered under the FAA's State Block Grant Program or airports in a channeling act state should coordinate with their associated state agency on the process for deciding who should submit an application using the procedures noted above. All applicants, including those requesting full federal share of eligible project costs, should have a plan to address potential cost overruns as part of an overall funding plan.

3. Unique Entity Identifier and System for Award Management (SAM)

Applicants must comply with 2 CFR part 25—*Universal Identifier and System for Award Management.* All applicants must have a unique entity identifier provided by SAM. Additional information about obtaining a Unique Entity Identifier (UEI) and registration procedures may be found on the SAM website (currently at *http://www.sam.gov*). Each applicant is required to: (1) be registered in SAM; (2) provide a valid UEI prior to grant award; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by the FAA. Under the FCT Competitive Grant Program, the UEI and SAM account must belong to the entity that has the legal authority to apply for, receive, and execute FCT Competitive Grant Program grants.

Once awarded, the FAA grant recipient must maintain the currency of its information in SAM until the grantee submits the final financial report required under the grant or receives the final payment, whichever is later. A grant recipient must review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term.

The FAA may not make an award until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the FAA is ready to make an

[1] To date, the FAA has no certified Remote Towers. The FAA is currently evaluating this technology to assess its suitability for use in the National Airspace System. Remote Tower information is located at *www.faa.gov/airports/planning_capacity/non_federal/remote_tower_systems/.*

award, the FAA may determine that the applicant is not qualified to receive an award and use that determination as a basis for giving a Federal award to another applicant.

Non-Federal entities that have received a Federal award are required to report certain civil, criminal, or administrative proceedings to SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS) *www.fapiis.gov*) to ensure registration information is current and complies with federal requirements. Applicants should refer to 2 CFR 200.113 for more information about this requirement.

4. Submission Dates and Times

Airports that wish to be considered for FY 2023 FCT Competitive Grant Program funding should submit an application that meets the requirements of this NOFO as soon as possible, but no later than 5:00 p.m. Eastern time on December 6, 2022. Submit applications electronically to *9-ARP-BILAirports@faa.gov* per instructions in this NOFO. Airports that submitted projects under the FY 2023 Airport Terminal Program NOFO (87 FR 58897), that meet the eligibility requirements outlined in C.1., do not need to resubmit under this NOFO.

5. Funding Restrictions

All projects funded from the FCT Competitive Grant Program must be at airports approved in the FAA's contract tower program or contract tower cost share program defined in 49 U.S.C. 47124.

FCT Competitive Grant Program funds may not be used to support or oppose union organizing.

6. Other Submission Requirements

Using Digital Signatures: Form 5100–144 allows digital signatures. To access the digital signature field, save this form to your computer and then reopen it with a PDF reader or editor. The signature field often does not display when Form 5100–144 is viewed within a web browser.

E. Application Review Information

1. Criteria

Applications for FY 2023 FCT Competitive Grant Program will be rated using the following criteria:

i. Projects must meet eligibility requirements under the FCT Competitive Grant Program outlined under Sections C.1 and C.3 above.

ii. The FAA will consider timeliness of implementation, with priority given to those projects, including ''design only'' projects, that can satisfy all statutory and administrative requirements for grant award in July 2023.

iii. ATCT projects will be evaluated based on the overall impact on the National Airspace System, including age of facility, operational constraints, nonstandard facility conditions, or new FCT entrant requirements.

iv. Priority will be given to projects that advance aviation safety or enhance air traffic efficiency.

v. The applicant should describe whether and how project delivery and implementation creates good-paying jobs with the free and fair choice to join a union to the greatest extent possible, the use of demonstrated strong labor standards, practices and policies (including for direct employees, contractors, and sub-contractors, and service workers on airport property); use of project labor agreements; distribution of workplace rights notices; union neutrality agreements; wage and/or benefit standards; the use of Local Hire Provisions;[2] registered apprenticeships; or other similar standards or practices. The applicant should describe how planned methods of project delivery and implementation (for example, use of Project Labor Agreements and/or Local Hire Provisions,[3] training and placement for underrepresented workers) provide opportunities for all workers, including workers underrepresented in construction jobs, to be trained and placed in good-paying jobs directly related to the project. The FAA will consider this information in evaluating the application.

2. Review and Selection Process

Federal awarding agency personnel will evaluate applications based on how well the projects meet the criteria in E.1, including project eligibility, justification, readiness, and impact on the National Airspace System. The FAA will also consider how well projects advance the goals of the following Executive Orders: the President's January 20, 2021, Executive Order 13990, ''*Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*''*;* the President's January 20, 2021, Executive Order 13985, ''*Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*''*;* the President's January 27, 2021, Executive Order 14008, ''*Tackling the Climate Crisis at Home and Abroad*''*;* the President's May 20, 2021, Executive Order 14030, *Climate Related Financial Risk;* and the President's July 9, 2021, Executive Order 14036, ''*Promoting Competition in the American Economy.*''

3. Integrity and Performance Check

Prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold, the FAA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered. The FAA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206.

F. Federal Award Administration Information

1. Federal Award Notices

BIL awards are announced through a Congressional notification process and a DOT Secretary's Notice of Intent to Fund. The FAA RO/ADO representative will contact the airport with further information and instructions. Once all pre-grant actions are complete, the FAA RO/ADO will offer the airport sponsor a grant for the announced project. This offer may be provided through postal mail or by electronic means. Once this offer is signed by the airport sponsor, it becomes a grant agreement. Awards made under this program are subject to conditions and assurances in the grant agreement.

2. Administrative and National Policy Requirements

i. Pre-Award Authority

All project costs must be incurred after the grant execution date unless specifically permitted under 49 U.S.C. 47110(c). Certain airport development costs incurred before execution of the grant agreement, but after November 15, 2021, are allowable, only if certain conditions under 49 U.S.C. 47110(c)are met [see Table 3–60 of the AIP

[2] IIJA div. B Section 25019 provides authority to use geographical and economic hiring preferences, including local hire, for construction jobs, subject to any applicable State and local laws, policies, and procedures.

[3] Project labor agreement should be consistent with the definition and standards outlined in Executive Order 14063.

Handbook, FAA Order 5100.38 D Change 1, for a specific list of the guidance regarding when project costs can be incurred in relation to section 47110(c)].

ii. Grant Requirements

All grant recipients are subject to the grant requirements of the AIP, found in 49 U.S.C. Chapter 471. Grant recipients are subject to requirements in the FAA's *AIP Grant Agreement* for financial assistance awards; the annual certifications and assurances required of applicants; and any additional applicable statutory or regulatory requirements, including nondiscrimination requirements and 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.* Grant requirements include, but are not limited to, approved projects on an airport layout plan; compliance with Federal civil rights laws; Buy American requirements under 49 U.S.C. 50101; Build America, Buy America requirements in sections 70912(6) and 70914 in Public Law No: 117–58; the *Department of Transportation's Disadvantaged Business Enterprise (DBE) Program* regulations for airports (49 CFR part 23 and 49 CFR part 26); the Infrastructure Investment and Jobs Act; and prevailing wage rate requirements under the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5, and reenacted at 40 U.S.C. 3141–3144, 3146, and 3147).

Domestic Preference Requirements: As expressed in Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers* (86 FR 7475), it is the policy of the executive branch to maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. This program includes infrastructure expenditures subject to the Build America, Buy America Act (Pub. L. 117–58, div. G §§ 70901–70927). The FAA expects all applicants to comply with that requirement without needing a waiver. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

Civil Rights and Title VI: Recipients of Federal transportation funding will be required to comply fully with Title VI of the Civil Rights Act of 1964 and implementing regulations, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements. The DOT's and the FAA's Office of Civil Rights will be providing resources and technical assistance to ensure full and sustainable compliance with Federal civil rights requirements.

Critical Infrastructure Security and Resilience: It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. Each applicant selected for Federal funding under this notice must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by the Department and the Department of Homeland Security, will be required to do so before receiving funds for construction, consistent with Presidential Policy Directive 21—Critical Infrastructure Security and Resilience and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems.

Performance and Program Evaluation: As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT, the FAA, or another agency or partner. The evaluation may take different forms, such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. DOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff. Requested program records or information will be consistent with record requirements outlined 2 CFR 200.334–338 and the grant agreement.

iii. Standard Assurances

Each grant recipient must assure that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FAA circulars, and other federal administrative requirements in carrying out any project supported by the FCT Competitive Grant Program grant. The grant recipient must acknowledge that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with the FAA. The grant recipient understands that federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The grant recipient must agree that the most recent Federal requirements will apply to the project unless the FAA issues a written determination otherwise.

The grant recipient must submit the Certifications at the time of grant application and Assurances must be accepted as part of the grant agreement at the time of accepting a grant offer. Grant recipients must also comply with 2 CFR part 200, which ''are applicable to all costs related to Federal awards,'' and which is cited in the grant assurances of the grant agreements. The Airport Sponsor Assurances are available on the FAA website at: *https://www.faa.gov/airports/aip/grant_assurances.*

3. Reporting

Grant recipients are subject to financial reporting per 2 CFR 200.328 and performance reporting per 2 CFR 200.329. Under the FCT Competitive Grant Program, the grant recipient is required to comply with all Federal financial reporting requirements and payment requirements, including the submittal of timely and accurate reports. Financial and performance reporting requirements are available in the FAA October 2020 Financial Reporting Policy, which is available at: *https://www.faa.gov/sites/faa.gov/files/airports/aip/grant_payments/aip-grant-payment-policy.pdf.*

The grant recipient must comply with annual audit reporting requirements. The grant recipient and sub-recipients, if applicable, must comply with 2 CFR part 200 subpart F Audit Reporting Requirements. The grant recipient must comply with any requirements outlined in 2 CFR part 180, *Office of Management and Budget (OMB) Guidelines to Agencies on Government wide Debarment and Suspension.*

G. Federal Awarding Agency Contact(s)

For further information concerning this notice, please contact the FAA BIL Implementation Team via email at: *9-ARP-BILAirports@faa.gov.* In addition, the FAA will post answers to frequently asked questions and requests for clarifications on FAA's website at *https://www.faa.gov/general/bipartisan-infrastructure-law-faqs.* To ensure applicants receive accurate information about eligibility of the program, the

applicant is encouraged to contact the FAA directly, rather than through intermediaries or third parties, with questions.

Issued in Washington, DC, on November 3, 2022.

Robin K. Hunt,

Manager, FAA Office of Airports BIL Branch.

[FR Doc. 2022–24398 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Monroe Regional Airport, Monroe, Louisiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Monroe Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before December 9, 2022.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Justin Barker, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Louisiana/New Mexico Airports Development Office, ASW–640, Fort Worth, Texas 76177.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles Butcher, Airport Director, at the following address: 5400 Operations Rd., Monroe, LA 71203.

FOR FURTHER INFORMATION CONTACT: Mr. Jean Gamarra, Program Manager, Federal Aviation Administration, Louisiana/New Mexico Airports Development Office, ASW–640, 10101 Hillwood Parkway, Fort Worth, Texas 76177, Telephone: (817) 222–5522, Email: *jean.gamarra@faa.gov*, Fax: (817) 222–5989.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Monroe Regional Airport under the provisions of the AIR 21.

The following is a brief overview of the request:

The City of Monroe requests the release of 2.46 acres of non-aeronautical airport property. The land was acquired by Deed without Warranty from the United States on September 8th, 1949. The property to be released will be sold for the expansion of the Chenault Aviation and Military Museum. Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the City of Monroe Legal Department, telephone number (318) 329–2240.

Issued in Fort Worth, Texas, on October 12th, 2022.

Ignacio Flores,

Director, Office of Airports Southwest Region.

[FR Doc. 2022–24392 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–1256; Summary Notice No. 2022–41]

Petition for Exemption; Summary of Petition Received; US Aviation Training Solutions

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before November 29, 2022.

ADDRESSES: Send comments identified by docket number FAA–2022–1256 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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, 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 20590–0001, 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: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Thai at (202) 267–0175, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on 2 November 2022.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–1256.

Petitioner: US Aviation Training Solution.

Section(s) of 14 CFR Affected: §§ 91.313(c) and 91.313(d)(2).

Description of Relief Sought: US Aviation Training Solution requests an exemption in order to operate a restricted category civil aircraft carrying persons or property for compensation and for Portuguese Air Force (PoAF) personnel to be considered flight crewmember trainees. US Aviation Training Solution intends to train and qualify PoAF personnel in emergency response and humanitarian service airborne missions utilizing UH–60 aircraft.

[FR Doc. 2022–24472 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0099]

Hours of Service of Drivers: Application for Exemption; Leland Schmitt, Jr.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the application from Leland Schmitt, Jr., requesting an exemption from five provisions of the federal hours of service (HOS) regulations. The applicant requests the exemption for a five-year period and believes that his safe driving record and experience demonstrate an equivalent level of safety. FMCSA analyzed the application and public comments and determined that the exemption would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–2722. Email: *richard.clemente@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0099'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''View Related Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0099'' in the keyword box, click ''Search,'' and chose the document to review.

If you do not have access to the internet, you may view the docket by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain 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 also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

To reduce the possibility of driver fatigue, FMCSA's hours of service (HOS) regulations in 49 CFR part 395 place limits on the amount of time drivers of commercial motor vehicles (CMVs) may drive. The HOS regulations in 49 CFR 395.3(a)(1) prohibit an individuals from driving again after 11 hours driving or 14 hours on duty until they have been off duty for a minimum of 10 consecutive hours, or the equivalent of at least 10 consecutive hours off duty. Under 49 CFR 395.3(a)(2)—commonly referred to as the 14-hour ''driving window''— a driver has 14 consecutive hours in which to drive up to 11 hours after being off duty for 10 or more consecutive hours. Section 395.3(a)(3)(ii) mandates that drivers take a 30-minute break when they have driven for a period of 8 cumulative hours without at least a 30-minute interruption. The break may be satisfied by any non-driving period of 30 consecutive minutes (*i.e.,* on-duty not driving, off duty, sleeper berth, or any combination of these taken consecutively). Section 395.3(b)(1) prohibits drivers for a motor carrier that does not operate CMVs every day of the week from driving a CMV after being on duty for 60 hours during any 7 consecutive days, and section 395.3(b)(2) prohibits drivers for a motor carrier that operates CMVs every day of the week from driving a CMV after being on duty for 70 hours in any 8 consecutive days.

Applicant's Request

Leland Schmitt, Jr., requests a five-year exemption from 49 CFR 395.3(a)(1), section 395.3(a)(2), section 395.3(a)(3)(ii), and sections 395.3(b)(1) and (2). The applicant is an owner-operator currently leased to D & E Transport in Clearwater, Minnesota, who has been driving CMVs for 30 years. The requested exemption is solely for Mr. Schmitt. The applicant states that the mandatory 10 hour off-duty break goes against his natural sleep patterns, as his normal nighttime sleep while in the CMV is between 5 and 7 hours.

IV. Method To Ensure an Equivalent or Greater Level of Safety

The applicant believes that his level of safety under this exemption would be better than he could achieve by complying with the HOS regulations because he will receive the proper rest needed when he needs it. He points to his excellent driving record and 30 years of safe driving experience. He states that he has not been involved in any crashes and that he has accumulated over three million safe driving miles during his truck driving career. He further indicates that he is not requesting an exemption from the required 11 hours of total driving time, which will be properly recorded by the electronic logging device (ELD) in the vehicle. In his application for exemption, he also cites a sleep study by the Massachusetts Institute of Technology, which he states finds ''no impact from more night sleep, though naps help.''

V. Public Comments

On June 9, 2022, FMCSA published Mr. Schmitt's application and requested public comment [87 FR 35282]. The Agency received 651 total comments, 647 of which were filed by individual commenters; 350 comments supported the exemption, 68 were opposed, and 229 offered no position either for or against the request. Advocates for Highway and Auto Safety (Advocates) filed comments strongly opposing the request. Advocates stated: ''Exempting the Petitioner (or any CMV operator) from these HOS provisions and allowing him to drive as long, frequently and as much as he desires would be utterly reckless and presents a needless threat

to public safety regardless of his past driving record. Granting the application would also disregard well established science on driver fatigue.''

Other themes included among the comments were that: (1) safe drivers are leaving the trucking industry because they are ''over-regulated;'' (2) there are problems relating to loading/unloading delays at shipper and driver detention times; (3) the applicant should use the current sleeper-berth ''split'' provisions (7/3 ''split''); (4) with over three million CMV drivers in the industry, the Agency cannot exempt one individual driver from the HOS rules; (5) numerous commenters would like to be included in the exemption if it is granted, and others said that they would be applying for a similar exemption; (6) the HOS regulations and the mandatory use of ELDs are objectionable; (7) if the exemption is granted, it should apply to all CMV drivers; and (8) the Agency should do a pilot study on the exemption the applicant requests.

VI. FMCSA Safety Analysis and Decision

FMCSA evaluated Mr. Schmitt's application and public comments and denies the exemption request. Mr. Schmitt failed to establish that he would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption. The Agency established and enforces the HOS regulations to keep fatigued drivers off the public roadways. Research studies demonstrate that long work hours reduce sleep and harm driver health and that crash risk increases with work hours. The HOS regulations impose limits on when and how long an individual may drive, to ensure that drivers stay awake and alert, and to reduce the possibility of cumulative fatigue. The Agency concurs with commenters that if it exempts one individual from the HOS regulations, it could open the door for a huge number of similar exemption requests. Such a result would be inconsistent with a primary goal of the HOS regulations.

For the above reasons, Leland Schmitt, Jr.'s exemption application is denied.

Robin Hutcheson,

Administrator.

[FR Doc. 2022–24383 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2011–0104]

Central Florida Rail Corridor's Request for Positive Train Control Safety Plan Approval and System Certification

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on October 26, 2022, Central Florida Rail Corridor (CFRC) submitted its Positive Train Control Safety Plan (PTCSP), Version 4.1, dated October 21, 2022, to FRA's Secure Information Repository. CFRC asks FRA to approve its updated PTCSP and certify CFRC's Interoperable Electronic Train Management System (I–ETMS) as a mixed PTC system.

DATES: FRA will consider comments received by January 9, 2023 before taking final action on the PTCSP. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: *Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this railroad is Docket No. FRA–2011–0104. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In its PTCSP, CFRC asserts that the I–ETMS it is implementing is a mixed PTC system as defined in Title 49 Code of Federal Regulations (CFR) 236.1015(e). The PTCSP describes CFRC's I–ETMS implementation and the associated I–ETMS safety processes, safety analyses, and test, validation, and verification processes used during the development of I–ETMS. The PTCSP also contains CFRC's operational and support requirements and procedures.

CFRC's PTCSP is available for review online at *https://www.regulations.gov* (Docket Number FRA–2011–0104). Interested parties are invited to comment on the PTCSP by submitting written comments or data. During its review of the PTCSP, FRA will consider any comments or data submitted. *See* 49 CFR 236.1011(e). However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1009(d)(3), FRA maintains the authority to approve or disapprove the PTCSP at its sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2022–24394 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of calendar year 2023 random drug and alcohol testing rates.

SUMMARY: This notice announces the calendar year 2023 drug and alcohol random testing rates for specific recipients of FTA financial assistance. The minimum random drug testing rate will remain at 50 percent, and the random alcohol testing rate will remain at 10 percent.

DATES: Applicable Date: January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager in the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov*).

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions, and to submit annual reports by March 15 of each year beginning in 1996, pursuant to drug and alcohol regulations adopted by FTA at 49 CFR parts 653 and 654 in February 1994. The annual report includes the number of employees who had a verified positive test for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced the required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997.

FTA updated the testing rules by merging them into a new 49 CFR part 655, effective August 1, 2001 (66 FR 42002). The regulation maintained a random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. The Administrator may lower the random testing rate to 25 percent if the violation rates drop below 1.0 percent for drug testing and 0.5 percent for alcohol testing for two consecutive years. Accordingly, in 2007, FTA reduced the random drug testing rate from 50 percent to 25 percent (72 FR 1057). In 2018, however, FTA returned the random drug testing rate to 50 percent for calendar year 2019 based on verified industry data for calendar year 2017, which showed that the rate had exceeded 1 percent (83 FR 63812).

Pursuant to 49 CFR 655.45, the Administrator's decision to determine the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. To ensure the reliability of the data, the Administrator must consider the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry's verified positive results and violation rates.

For calendar year 2023, the Administrator has determined that the minimum random drug testing rate for covered employees will remain at 50 percent based on a verified positive rate for prohibited drug use of 0.99 percent for calendar year 2021 and 1.08 percent for calendar year 2020. Further, the Administrator has determined that the minimum random alcohol testing rate for calendar year 2023 will remain at 10 percent, because the violation rate again was lower than 0.5 percent for calendar years 2020 and 2021. The random alcohol violation rates were 0.17 percent for 2020 and 0.13 for 2021.

Detailed reports on FTA's drug and alcohol testing data collected from transit employers may be obtained from FTA, Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2010, or at: *https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Default.aspx*.

Nuria I. Fernandez,

Administrator.

[FR Doc. 2022–24379 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No: PHMSA–2022–0123]

Pipeline Safety: Notice of Availability of the Tier 1 Nationwide Environmental Assessment for the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA announces the availability for public review and comment on the Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) Grant Program Tier 1 Nationwide Environmental Assessment. PHMSA is using a programmatic, tiered environmental analysis to: describe the effects of implementing the NGDISM Grant Program and ensure that implementation of the NGDISM Grant Program at any project site complies with environmental laws and does not result in a significant environmental impact.

DATES: Interested persons are invited to submit comments on or before December 9, 2022. To the extent possible, PHMSA will consider late-filed comments.

ADDRESSES: Comments should reference the Docket number for this notice and may be submitted in the following ways:

E-Gov website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Instructions: Identify docket number PHMSA–2022–0123 at the beginning of your comments. To avoid duplication, please use only one of these four methods. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**). If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2022–0123.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement: In accordance with 5 U.S.C. 553(c), DOT may solicit comments from the public regarding certain general notices. DOT posts these

comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL- 14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to the program office at *PHMSAPipelineBILGrant@dot.gov.* Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT: Shakira Mack by email at *PHMSAPipelineBILGrant@dot.gov* or by phone at 202–366–7652.

SUPPLEMENTARY INFORMATION: On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58) was enacted. Under the heading ''Department of Transportation—Pipeline and Hazardous Materials Safety Administration—Natural Gas Distribution Infrastructure Safety and Modernization Grant Program'' in title VIII of division J, the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program was established. The stated purpose of the program is to provide grant opportunities to municipality and community-owned utilities (not including for-profit entities) ''to repair, rehabilitate, or replace its natural gas distribution pipeline system or portions thereof or to acquire equipment to (1) reduce incidents and fatalities and (2) avoid economic losses.'' The statutory requirements for PHMSA's implementation of the program are mandatory, and PHMSA is expected to implement the program as swiftly as possible to reduce incidents, fatalities, and adverse impacts to the public and the environment, particularly in disadvantaged communities.

Under the Federal Pipeline Safety Laws, 49 U.S.C. 60101 *et seq.,* the Secretary of Transportation (the Secretary) must prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The Secretary has delegated this authority to the PHMSA Administrator (49 CFR 1.97(a)). Therefore, PHMSA is the Federal safety agency responsible for ensuring the safe, reliable, and environmentally sound operations of our Nation's pipeline transportation system. Through the NGDISM Grant Program, PHMSA seeks to (1) reduce the risk profile of existing municipality and community-owned (not including for-profit entities) natural gas distribution pipeline systems, including pipe prone to leakage of methane, (2) create related jobs, (3) provide economic impact and growth, and (4) benefit disadvantaged rural and urban communities.

PHMSA is publishing this notice, in compliance with the National Environmental Policy Act of 1969 (NEPA), to give stakeholders an opportunity to comment on PHMSA's Tier 1 Nationwide Environmental Assessment.

We invite interested persons to review and provide comment on the Tier 1 Nationwide Environmental Assessment which is included in the docket for this notice. The document is available at *http://www.regulations.gov* under Docket number PHMSA–2022–0123. Please include comment on potential safety, environmental, and any additional impacts that should be considered.

Before issuing the Tier 1 Nationwide Environmental Assessment, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives prior to issuing the Tier 1 Nationwide Environmental Assessment as part of the NGDISM Grant Program.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Issued in Washington, DC, on November 2, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–24378 Filed 11–8–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Revision; Submission for OMB Review; Licensing Manual

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision to a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled ''Licensing Manual.'' The OCC also is giving notice that the collection has been sent to OMB for review.

DATES: Comments must be received on or before December 9, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0014, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0014'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or

phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

On July 1, 2022, the OCC published a 60-day notice for this information collection, (87 FR 39590). You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0014'' or ''Licensing Manual.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks OMB to approve this revised collection.

Title: Licensing Manual.

OMB Control No.: 1557–0014.

Abstract: The Licensing Manual sets forth the OCC's policies and procedures for the formation of a national bank or Federal branch or agency, entry into the Federal banking system by other institutions, and corporate expansion and structural changes by existing banks. The Manual includes sample documents to assist the applicant in understanding the types of information the OCC needs in order to process a filing. An applicant may use the format of the sample documents or any other format that provides sufficient information for the OCC to act on a particular filing, including the OCC's electronic filing system, the Central Application Tracking System (CATS).

To reflect revisions to 12 CFR part 5, which was revised effective January 11, 2021,[1] the following applications, notices and templates are being amended.

- Instructions—Bylaws (National Banks)
- Instructions—Articles of Association (National Banks)
- Articles of Association (National Banks)
- Model Bylaws for Stock Associations (Federal Savings Associations)
- Model Charter for Stock Associations (Federal Savings Associations)
- Federal Mutual Association Charter (Federal Savings Associations)
- Federal Mutual Association Bylaws (Federal Savings Associations)
- Application for Charter or Bylaw Amendment (Federal Savings Associations)
- Notice for Charter and Bylaw Amendment (Federal Savings Associations)
- Management Interlock Application
- Increase in Permanent Capital and Preferred Stock Terms Application
- Increase in Permanent Capital Notice
- Application for Reduction of Permanent Capital, or Dividends Payable in Property Other Than Cash, or Capital Distribution
- Reverse Stock Split Application
- Quasi-Reorganization Application
- Issuance of, or Prepayment of, or Material Changes to Subordinated Debt After-the-Fact Notice
- Issuance of Subordinated Debt and Inclusion as Tier 2 Capital Application
- Prepayment of, or Material Changes to, Existing Subordinated Debt Application
- Operating Subsidiary Application
- Other Equity and Pass-Through Investments Application
- Operating Subsidiary After-the-Fact Notice (National Banks)
- Equity Investment in Statutory Subsidiary After-the-Fact Notice (National Banks)
- Financial Subsidiary Application (National Banks)
- Financial Subsidiary Certification (National Banks)
- Financial Subsidiary Application and Certification (National Banks)
- Bank Service Company Notice
- Service Corporation Application (Federal Savings Associations)
- Subsidiary Redesignation Notice (Federal Savings Associations)
- 12 U.S.C. 1828(m) Investment Application (Federal Savings Associations)
- After-the-Fact Notice for Satisfaction of DPC Other Equity Investments and Pass-Through Investments
- After-the-Fact Notice for Other Equity Investments and Pass Through Investments

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,694.

Estimated Total Annual Burden: 12,481.15.

On July 1, 2022, the OCC published a notice for 60 days of comment concerning this collection (87 FR 39590). No comments were received. Comments continue to be solicited on:

(a) Whether the information collections are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–24455 Filed 11–8–22; 8:45 am]

BILLING CODE 4810–33–P

[1] 85 FR 80404 (December 11, 2020).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date.

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action

On November 4, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individual

1. LAMBERT, Joseph, Haiti; DOB 05 Feb 1961; POB Jacmel, Haiti; nationality Haiti; Gender Male (individual) [ILLICIT–DRUGS–EO14059]. Sanctioned pursuant to section 1(a)(i) of Executive Order 14059 (E.O. 14059) of December 15, 2021, ''Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,'' for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. LATORTUE, Youri, Haiti; DOB 13 Nov 1967; POB Gonaives, Artibonite, Haiti; nationality Haiti; Gender Male; National ID No. 05–01–99–1967–11–00001 (Haiti) (individual) [ILLICIT–DRUGS–EO14059]. Sanctioned pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Dated: November 4, 2022.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–24437 Filed 11–8–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On November 3, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. ARTEMOV, Viktor Sergiyovich, Chemin Des Princes 2, 1223, Cologny, Switzerland; Geneva, Switzerland; DOB 20 Oct 1975; alt. DOB 31 Dec 1975; POB Donetska Oblast, Ukraine; nationality Ukraine; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport FN356229 (Ukraine) expires 17 Apr 2028 (individual) [SDGT] (Linked To: HIZBALLAH; Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. EL ZEIN, Mohamed (a.k.a. AL-ZAYN, Muhammad; a.k.a. AL-ZAYN, Muhammad 'Ali), Beirut, Lebanon; Tehran, Iran; DOB 17 Feb 1987; nationality Lebanon; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 3090014 (Lebanon) expires 09 Mar 2020 (individual) [SDGT] (Linked To: HIZBALLAH; Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial,

material, or technological support for, or goods or services to or in support of, HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. NAFRIEH, Edman, Iran; DOB 24 Apr 1980; POB Tehran, Iran; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport H13722880 (Iran); alt. Passport RE0061544 (Saint Kitts and Nevis) expires 09 Jul 2027 (individual) [SDGT] (Linked To: HIZBALLAH; Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. RYABIKOVA, Tatiana (a.k.a. SURDON, Tatiana Ryabikova), France; DOB 24 Jan 1970; nationality France; Gender Female; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 04KH30561 (France) (individual) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. ZAHEDI, Rouzbeh (a.k.a. ZAHEDI, Roozbeh), Iran; DOB 01 Dec 1970; POB Iran; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; (individual) [SDGT] (Linked To: HIZBALLAH; Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. FAZZONE, Gregorio, Switzerland; DOB 13 Nov 1959; alt. DOB 31 Dec 1959; nationality Switzerland; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport X4818118 (Switzerland) expires 15 Jul 2020 (individual) [SDGT] (Linked To: AVA PETROLEUM SERVICES S.A.).

Designated pursuant to section 1(a)(iii)(E) of E.O. 13224, as amended, for being a leader or official of AVA PETROLEUM SERVICES S.A., a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. AVA PETROLEUM SERVICES S.A., Rue Rodolphe-Toepffer 8, Geneva 1206, Switzerland; Organization Established Date 20 Jul 2009; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number CH–660.1.612.009–4 (Switzerland) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. BLUE BERRI SHIPPING INC., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 04 Mar 2021; Business Number 108160 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. CENTRUM MARITIME PTE. LTD., 10 Anson Road, 20–05 International Plaza, 079903, Singapore; Organization Established Date 12 Nov 2020; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number 202036616G (Singapore) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. ENERGOTRADE PLUS DMCC, Unit No: 3O–01–BA1417, Jewellery & Gemplex 3, Plot No: DMCC–PH2–J&GPlexS, Jewellery & Gemplex, Dubai, United Arab Emirates; Organization Established Date 31 Mar 2021; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Company Number 11650050 (United Arab Emirates); Business Number DMCC–807753 (United Arab Emirates); Business Registration Number DMCC190145 (United Arab Emirates) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. EXPANSE SHIP MANAGEMENT LIMITED, Office 131, 11th Floor, Ankara Caddesi 145, Kordonboyu Mahallesi, Kartal, Istanbul, Turkey; Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2021; Organization Type: Sea and coastal freight water transport [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. GILDA TAR KARVAN INTERNATIONAL COMPANY, No 9 6th Alley, Tehran 1514643411, Iran; No. 7 Alvand Street, Argentine Sqr., Tehran 19666, Iran; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 10103735379 (Iran) [SDGT] (Linked To: NAFRIEH, Edman).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, EDMAN NAFRIEH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. HARBOUR SHIP MANAGEMENT LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Ap 22, Carrer de Pallars 193, Barcelona 08018, Spain; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Identification Number IMO 6235071 [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. INTREPID NAVIGATORS S.A., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 15 Feb 2022; Business Number 113129 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. MONUMONT SHIP MANAGEMENT LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Daire 131, Kat 11, 1st Marina B Blok, Ankara Caddesi 147, Kordonboyu Mahallesi, Kartal, Istanbul, Turkey; Kat 7, Rumeli Plaza, Rumeli Caddesi, Mesrutiyet Mahallesi, Nisantasi, Sisil, Istanbul, Turkey; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2021; Identification Number IMO 6207825 [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

10. PETRO NAVIERO PTE. LTD., 20 Upper Circular Road, 02–10/12 The Riverwalk, 058416, Singapore; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 31 Mar 2021; Commercial Registry Number 202111423D (Singapore) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

11. RISING TIDE SHIPPING CORP., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 22 Mar 2022; Business Number 113667 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

12. AL HAKEEL AL ASWAD OIL TRADING LLC, Unit No: 1701 Ontario Tower, Business Bay, Dubai, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 19 Sep 2016; Organization Type: Extraction of crude petroleum [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

13. AZUL VISTA SHIPPING CORPORATION, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number 107790 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

14. PONTUS NAVIGATION CORP., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number 113562 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

15. TECHNOLOGY BRIGHT INTERNATIONAL LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number 107346 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in

property are blocked pursuant to E.O. 13224, as amended.

16. TRITON NAVIGATION CORP., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Commercial Registry Number 113453 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

17. VISTA CLARA SHIPPING CORPORATION, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 22 Apr 2021; Commercial Registry Number 108904 (Marshall Islands) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

On November 3, 2022, OFAC also identified the following vessels as property in which a blocked person has an interest under the relevant sanctions authority listed below:

Vessels

1. B LUMINOSA Oil Products Tanker Djibouti flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9256016; MMSI 621819076 (vessel) [SDGT] (Linked To: HARBOUR SHIP MANAGEMENT LIMITED).

Identified pursuant to E.O. 13224, as amended, as property in which HARBOUR SHIP MANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

2. BLUEFINS Oil Products Tanker Djibouti flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9221657; MMSI 621819069 (vessel) [SDGT] (Linked To: HARBOUR SHIP MANAGEMENT LIMITED).

Identified pursuant to E.O. 13224, as amended, as property in which HARBOUR SHIP MANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

3. BOCEANICA Oil Products Tanker Djibouti flag; Former Vessel Flag Palau; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9267132; MMSI 621819060 (vessel) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Identified pursuant to E.O. 13224, as amended, as property in which VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

4. BUENO Oil Products Tanker Djibouti flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9282443; MMSI 621819070 (vessel) [SDGT] (Linked To: HARBOUR SHIP MANAGEMENT LIMITED).

Identified pursuant to E.O. 13224, as amended, as property in which HARBOUR SHIP MANAGEMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

5. RAIN DROP Crude Oil Tanker Cook Islands flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9233208; MMSI 518998461 (vessel) [SDGT] (Linked To: BLUE BERRI SHIPPING INC.).

Identified pursuant to E.O. 13224, as amended, as property in which BLUE BERRI SHIPPING INC., a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

6. ZEPHYR I (f.k.a. ZHEN I) Crude Oil Tanker Panama flag; Former Vessel Flag Palau; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9255880; MMSI 511100663 (vessel) [SDGT] (Linked To: ARTEMOV, Viktor Sergiyovich).

Identified pursuant to E.O. 13224, as amended, as property in which VIKTOR SERGIYOVICH ARTEMOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

7. ADISA Oil Products Tanker Panama flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9304667; MMSI 353024000 (vessel) [SDGT] (Linked To: TRITON NAVIGATION CORP.).

Identified pursuant to E.O. 13224, as amended, as property in which TRITON NAVIGATION CORP., a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

8. JULIA A (f.k.a. AZUL) Oil Products Tanker Liberia flag; Former Vessel Flag Palau; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9236353; MMSI 511100435 (vessel) [SDGT] (Linked To: AZUL VISTA SHIPPING CORPORATION).

Identified pursuant to E.O. 13224, as amended, as property in which AZUL VISTA SHIPPING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

9. LARA I (f.k.a. CLARA) Oil Products Tanker Liberia flag; Former Vessel Flag Palau; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9231767; MMSI 511100481 (vessel) [SDGT] (Linked To: VISTA CLARA SHIPPING CORPORATION).

Identified pursuant to E.O. 13224, as amended, as property in which VISTA CLARA SHIPPING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

10. NOLAN (f.k.a. OSLO) Oil Products Tanker Panama flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9179701; MMSI 354798000 (vessel) [SDGT] (Linked To: PONTUS NAVIGATION CORP.).

Identified pursuant to E.O. 13224, as amended, as property in which PONTUS NAVIGATION CORP., a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

11. YOUNG YONG Oil Products Tanker Djibouti flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9194127; MMSI 621819067 (vessel) [SDGT] (Linked To: TECHNOLOGY BRIGHT INTERNATIONAL LIMITED).

Identified pursuant to E.O. 13224, as amended, as property in which TECHNOLOGY BRIGHT INTERNATIONAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Dated: November 3, 2022.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–24447 Filed 11–8–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Potential Federal Insurance Response to Catastrophic Cyber Incidents

AGENCY: Departmental Offices, Treasury.

ACTION: Request for comments; extension of comment period.

SUMMARY: On September 29, 2022, Treasury published a Notice that invited the public to comment on questions related to cyber insurance and catastrophic cyber incidents in order to inform a joint assessment being conducted by the Department of the Treasury's Federal Insurance Office (FIO) and the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) into ''the extent to which risks to critical infrastructure from catastrophic cyber incidents and potential financial exposures warrant a federal insurance response.'' The purpose of this notice is to extend the comment period for a period of one month until December 14, 2022 and provide more time for interested parties to provide comments.

DATES: The comment period for the notice published at 87 FR 59161 on September 29, 2002, is extended. Responses must be received by December 14, 2022 to be assured of consideration.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov.* All comments should be captioned with ''Potential Federal Insurance Response to Catastrophic Cyber Incidents.'' Please include your name, organization (if applicable), and email addresses. Where appropriate, a comment should include a short executive summary. In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–2922, *Richard.Ifft@treasury.gov,* Jeremiah Pam, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–7009, *Jeremiah.Pam2@treasury.gov,* Philip Goodman, Senior Insurance Regulatory Policy Analyst (202) 622–1170, *Philip.Goodman@treasury.gov.* Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On June 21, 2022, the Government Accountability Office (GAO) issued a report, *Cyber Insurance: Action Needed to Assess Potential Federal Response to Catastrophic Attacks.* (GAO Report).[1] The GAO Report addressed the catastrophic risk of cyber incidents and the potential adoption of a federal insurance response to such cyber incidents. The GAO Report concluded that a full evaluation of whether there should be a federal insurance response in connection with catastrophic cyber risks would be best addressed by FIO (given its statutory authorities, including monitoring of the insurance sector and assisting the Secretary with administration of Terrorism Risk Insurance Program) and CISA (given its expertise in connection with cyber and physical risks to U.S. infrastructure) in a joint assessment to be provided to Congress. Both FIO and CISA accepted the GAO recommendation to conduct such a joint assessment.

On September 29, 2022, Treasury published a Notice in the **Federal Register** to request public comment related to cyber insurance and catastrophic cyber incidents.[2] The Notice requested that respondents address certain questions and stated that comments must be received by November 14, 2022 to be assured of consideration. This notice announces the extension of the comment period in order to give additional time for interested parties to provide comments. Responses must be received by December 14, 2022 to be assured of consideration.

Steven E. Seitz,

Director, Federal Insurance Office.

[FR Doc. 2022–24476 Filed 11–8–22; 8:45 am]

BILLING CODE 4810–AK–P

[1] GAO, *Cyber Insurance: Action Needed to Assess Potential Federal Response to Catastrophic Attacks (2022), https://www.gao.gov/products/gao-22-104256.*

[2] Potential Federal Insurance Response to Catastrophic Cyber Incidents, 87 FR 59161 (September 29, 2022), *https://www.federalregister.gov/documents/2022/09/29/2022-21133/potential-federal-insurance-response-to-catastrophic-cyber-incidents.*

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Internal Revenue Service (IRS) Information Collection Request

AGENCY: Departmental Offices, 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 9, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: U.S. Income Tax Return for Electing Alaska Native Settlement Trusts.

OMB Number: 1545–1776.

Form Number: 1041–N.

Abstract: An Alaska Native Settlement Trust (ANST) may elect under section 646 to have the special income tax treatment of that section apply to the trust and its beneficiaries. This one-time election is made by filing Form 1041–N which is used by the ANST to report its income, etc., and to compute and pay any income tax. Form 1041–N is also used for the special

information reporting requirements that apply to ANSTs.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Reinstatement of a previously approved collection.

Affected Public: Business or other for-profit Organizations.

Estimated Number of Respondents: 20.

Estimated Time per Response: 40 mins.

Estimated Total Annual Burden Hours: 793.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–24451 Filed 11–8–22; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES SENTENCING COMMISSION

Final Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In October 2022, the Commission published a notice of proposed policy priorities for the amendment cycle ending May 1, 2023. After reviewing public comment received pursuant to the notice of proposed priorities, the Commission has identified its policy priorities for the upcoming amendment cycle and hereby gives notice of these policy priorities.

FOR FURTHER INFORMATION CONTACT: Jennifer Dukes, Senior Public Affairs Specialist, (202) 502–4500, *pubaffairs@ussc.gov.*

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for Federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). *See* 87 FR 60438 (October 5, 2022).

As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the Federal sentencing guidelines, the Commission has identified its policy priorities for the amendment cycle ending May 1, 2023. Other factors, such as legislation requiring Commission action, may affect the Commission's ability to complete work on any or all identified priorities by May 1, 2023. Accordingly, the Commission may continue work on any or all identified priorities after that date or may decide not to pursue one or more identified priorities.

Pursuant to 28 U.S.C. 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.

The Commission has identified the following priorities for the amendment cycle ending May 1, 2023:

(1) Consideration of possible amendments to § 1B1.13 (Reduction in Term of Imprisonment Under 18 U.S.C. 3582(c)(1)(A) (Policy Statement)) to (A) implement the First Step Act of 2018 (Pub. L. 115–391); and (B) further describe what should be considered extraordinary and compelling reasons for sentence reductions under 18 U.S.C. 3582(c)(1)(A).

(2) Consideration of possible amendments to section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses)), section 2D1.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy), section 5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases), and related provisions in the *Guidelines Manual,* to implement the First Step Act of 2018 (Pub. L. 115–391).

(3) Consideration of possible amendments to § 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition) to (A) implement the Bipartisan Safer Communities Act (Pub. L. 117–159); and (B) make any other changes that may be warranted to appropriately address firearms offenses.

(4) Resolution of circuit conflicts as warranted, pursuant to the Commission's authority under 28 U.S.C. 991(b)(1)(B) and *Braxton* v. *United States,* 500 U.S. 344 (1991), including the circuit conflicts concerning (A) whether the government may withhold a motion pursuant to subsection (b) of section 3E1.1 (Acceptance of Responsibility) because a defendant moved to suppress evidence; and (B) whether an offense must involve a substance controlled by the Controlled Substances Act (21 U.S.C. 801 *et seq.*) to qualify as a ''controlled substance offense'' under subsection (b) of section 4B1.2 (Definitions of Terms Used in Section 4B1.1).

(5) Implementation of any legislation warranting Commission action.

(6) Continuation of its multiyear work on section 4B1.2 (Definitions of Terms Used in Section 4B1.1), including possible amendments to (A) provide an alternative approach to the ''categorical approach'' in determining whether an offense is a ''crime of violence'' or a ''controlled substance offense''; and (B) address various application issues, including the meaning of ''robbery'' and ''extortion,'' and the treatment of inchoate offenses and offenses involving an offer to sell a controlled substance.

(7) In light of Commission studies, consideration of possible amendments to the *Guidelines Manual* relating to criminal history to address (A) the impact of ''status'' points under subsection (d) of section 4A1.1 (Criminal History Category); (B) the treatment of defendants with zero criminal history points; and (C) the impact of simple possession of marihuana offenses.

(8) Consideration of possible amendments to the *Guidelines Manual* addressing 28 U.S.C. 994(j).

(9) Consideration of possible amendments to the *Guidelines Manual* to prohibit the use of acquitted conduct in applying the guidelines.

(10) Consideration of possible amendments to the *Guidelines Manual* to address sexual abuse or contact offenses against a victim in the custody, care, or supervision of, and committed by law enforcement or correctional personnel.

(11) Multiyear study of the *Guidelines Manual* to address case law concerning the validity and enforceability of guideline commentary.

(12) Continuation of its multiyear examination of the structure of the guidelines post-*Booker* to simplify the guidelines while promoting the statutory purposes of sentencing.

(13) Multiyear study of court-sponsored diversion and alternatives-to-incarceration programs (*e.g.,* Pretrial Opportunity Program, Conviction And Sentence Alternatives (CASA) Program, Special Options Services (SOS) Program), including consideration of possible amendments to the *Guidelines Manual* that might be appropriate.

(14) Consideration of other miscellaneous issues, including possible amendments to (A) section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses) to address offenses involving misrepresentation or marketing of a controlled substance as another substance; (B) section 3D1.2 (Grouping of Closely Related Counts) to address

the interaction between section 2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Transportation of Minors to Engage in a Commercial Sex Act or Prohibited Sexual Conduct; Travel to Engage in Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Sex Trafficking of Children; Use of Interstate Facilities to Transport Information about a Minor) and section 3D1.2(d); and (C) section 5F1.7 (Shock Incarceration Program (Policy Statement)) to reflect that the Bureau of Prisons no longer operates a shock incarceration program.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Carlton W. Reeves,

Chair.

[FR Doc. 2022–24546 Filed 11–8–22; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the National Research Advisory Council will hold a meeting on Wednesday, December 7, 2022, by MS Teams. The teleconference number is 1–872–701–0185, conference ID 317 213 453# or the meeting link is *https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGJlYWU4YTktOWE0NS00Njk3LTljYmItOTk3ZjE1Njk3MDhj%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22121a3c2b-ae37-46ab-a12a-fa7b555533ae%22%7d.*

The meeting will convene at 11:00 a.m. and end at 2:00 p.m. Eastern daylight time. This meeting is open to the public.

The purpose of the National Research Advisory Council is to advise the Secretary on research conducted by the Veterans Health Administration, including policies and programs targeting the high priority of Veterans' health care needs.

On December 7, 2022, the agenda will include follow up discussion of sensitive species; overview of VA Homelessness Research; discussion of subcommittee activities and updates on the Research Enterprise Initiative. No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to attend, have questions or presentations to present may contact Rashelle Robinson, Designated Federal Officer, Office of Research and Development (14RD), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at 202–443–5768, or *Rashelle.robinson@va.gov* no later than close of business on December 2, 2022. All questions and presentations will be presented during the public comment section of the meeting. Any member of the public seeking additional information should contact Rashelle Robinson at the above phone number or email address noted above.

Dated: November 4, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–24453 Filed 11–8–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0736]

Agency Information Collection Activity: Authorization To Disclose Personal Information to a Third Party

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0736'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0736'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 5 U.S.C. 552a and 38 U.S.C. 5701, 38 CFR 1.526(a) and 1.576(b).

Title: Authorization to Disclose Personal Information to a Third Party (VA Form 21–0845).

OMB Control Number: 2900–0736.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA Form 21–0845 is used to release information in its custody or control in the following circumstances: where the individual identifies the information and consents to its use; for the purpose for which it was collected or a consistent purpose (*i.e.,* a purpose which the individual might have reasonably expected). By law, VA must have a claimants or beneficiary's written permission (an ''authorization'') to use or give out claim or benefit information for any purpose that is not contained in VA's System of Records, 58VA21/22/28 Compensation, Pension, Education and Veterans Readiness and Employment Records. The claimant or beneficiary may revoke the authorization at any time, except if VA has already acted based on the claimant's permission.

No changes have been made to this form. The respondent burden has increased due to the estimated number

of receivables averaged over the past year.

Affected Public: Individuals and households.

Estimated Annual Burden: 9,472 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 113,660.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24462 Filed 11–8–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0721]

Agency Information Collection Activity: Examination for Housebound Status or Permanent Need for Regular Aid and Attendance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0721'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0721'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 1114, 1521(d) and (e), 1115(1)(E), 1311(d), 1541(d) and (e), 38 CFR 3.351, 3.351(d), 3.351 (d)(2), 38 3.351(c)(2), 4.16, and 3.326(a).

Title: Examination for Housebound Status or Permanent Need for Regular Aid and Attendance (VA Form 21–2680).

OMB Control Number: 2900–0721.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA Form 21–2680 is used to determine eligibility for the aid and attendance and/or housebound benefit. This form is maintained in the Veteran's claims folder. The purpose of this examination is to record manifestations and findings pertinent to the question of whether the claimant is housebound (confined to the home or immediate premises) or in need of the regular aid and attendance of another person. Without this information, entitlement to these benefits cannot be determined.

No changes have been made to this form. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

Affected Public: Private Sector.

Estimated Annual Burden: 51,958 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 103,915.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24377 Filed 11–8–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

The President

Memorandum of October 28, 2022—Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

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Presidential Documents

Title 3—

The President

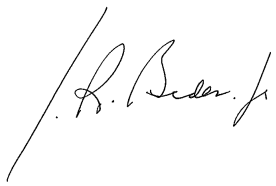
Memorandum of October 28, 2022

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $275 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, October 28, 2022

[FR Doc. 2022–24660
Filed 11–8–22; 11:15 am]
Billing code 4710–10–P

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Federal Register

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

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