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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–21–0042]

National Organic Program: 2021 and 2022 Sunset Review and Substance Renewals

AGENCY: Agricultural Marketing Service, USDA.

ACTION: 2021 and 2022 sunset review and renewals.

SUMMARY: This document announces the renewal of substances listed on the National List of Allowed and Prohibited Substances (National List) within the U.S. Department of Agriculture's (USDA) organic regulations. This document reflects the outcome of the 2021 and 2022 sunset review processes and addresses recommendations submitted to the Secretary of Agriculture (Secretary), through the USDA's Agricultural Marketing Service (AMS), by the National Organic Standards Board (NOSB).

DATES: Applicable September 12, 2021.

FOR FURTHER INFORMATION CONTACT: Jared Clark, Standards Division, *Telephone:* (202) 720–3252; *Fax:* (202) 260–9151.

SUPPLEMENTARY INFORMATION:

Background

AMS administers the National Organic Program (NOP) under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6524). The regulations implementing the NOP, also referred to as the USDA organic regulations (7 CFR part 205), were published on December 21, 2000 (65 FR 80548) and became effective on October 21, 2002. Through these regulations, AMS oversees national organic standards for the production, handling, and labeling of organically produced agricultural products. Since October 2002, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606.

The National List identifies the synthetic substances allowed to be used and the nonsynthetic substances prohibited from use in organic farming. The National List also identifies nonagricultural substances and nonorganic agricultural substances that may be used in organic handling. The OFPA and USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless an exemption for using the synthetic substance is provided on the National List. Section 205.105 of the USDA organic regulations also requires that any nonorganic agricultural substance and any nonagricultural substance used in organic handling be listed as allowed on the National List.

The OFPA at 7 U.S.C. 6518 authorizes the NOSB, operating in accordance with the Federal Advisory Committee Act (§ 1 *et seq.,* 5 U.S.C. App.2), to assist in evaluating substances to be allowed or prohibited for organic production and handling and to advise the Secretary on the USDA organic regulations. The OFPA sunset provision (7 U.S.C. 6517(e)) also requires a review of all substances included on the National List within five years of their addition to or renewal on the list. During this sunset review, the NOSB considers any new information pertaining to a substance's impact on human health and the environment, its necessity due to the unavailability of wholly natural substances, and its consistency with organic production and handling. The NOSB subsequently votes on whether to remove a substance from the National List.

The Agricultural Improvement Act of 2018 amended the OFPA at 7 U.S.C. 6518(i)(2) to specify that any vote on a motion proposing to amend the National List requires ⅔ of the votes cast at a meeting of the NOSB at which a quorum is present to prevail. A substance remains on the National List unless an NOSB motion to remove that substance carries with ⅔ of votes cast, and the Secretary subsequently renews or amends the listing for the substance. The NOSB submits its sunset review and recommendations to the Secretary. As delegated by the Secretary, AMS evaluates the sunset review and recommendations for compliance with the National List substance evaluation criteria set forth in OFPA at 7 U.S.C. 6518(m) and other federal statutes or regulations. AMS also considers public comments submitted during the sunset review process.

AMS published an updated sunset review process in the **Federal Register** on September 16, 2013 (78 FR 56811). In accordance with the sunset review process, AMS published notices in the **Federal Register** announcing the NOSB meetings and invited written public comments on the 2021 and 2022 sunset review of the substances included in Table 1 and Table 2 below. AMS also hosted oral public comment sessions to provide opportunities for public comment prior to NOSB meetings. Oral public comments were also heard at the start of the spring 2019 & 2020 and fall 2019 & 2020 NOSB meetings. At these public meetings, the NOSB reviewed substance listings scheduled to sunset from the National List and recommended that listings either be removed or remain on the National List. The NOSB's recommendations for sunset reviews completed in 2019 and 2020 can be found at *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations/.*

AMS has reviewed and accepted the NOSB's sunset review recommendations and is renewing the listings of the substances in Table 1 and Table 2. These renewals align with the NOSB's conclusions and have been reviewed by AMS against the OFPA criteria (7 U.S.C. § 6517(c)). AMS has determined that the substance allowances listed in this document continue to meet the requirements in OFPA at § 6517(c)(1)(A). The renewal of these substance allowances will allow for continued use by organic operations. AMS also has determined that the four prohibited nonsynthetic substances listed in this document—ash from manure burning, sodium fluoaluminate, arsenic, and strychnine—should remain prohibited, as recommended by the NOSB, because use of the substances continues to meet the criteria for prohibition at § 6517(c)(2)(A).

The NOSB also recommended to the Secretary the removal of several National List substances at the

conclusion of the sunset review.[1] These removals from the National List will be addressed in a separate notice and comment rulemaking and are not included in this document.

Table 1 lists the substance exemptions being renewed through this document that were reviewed by the NOSB in calendar year 2019. These specific substance allowances and prohibitions continue as listed on the National List with a new sunset date of September 12, 2026.

TABLE 1—NATIONAL LIST SUBSTANCES RENEWED

[Reviewed by NOSB in 2019]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Hydrogen peroxide	As described under § 205.601(a)(4).
Hydrogen peroxide	As described under § 205.601(i)(5).
Soaps, ammonium	As described under § 205.601(d).
Horticultural oils	As described under § 205.601(e)(7).
Horticultural oils	As described under § 205.601(i)(7).
Pheromones	As described under § 205.601(f).
Ferric phosphate	As described under § 205.601(h)(1).
Potassium bicarbonate	As described under § 205.601(i)(9).
Magnesium sulfate	As described under § 205.601(j)(6).
Hydrogen chloride	As described under § 205.601(n).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Ash from manure burning	As described under § 205.602(a).
Sodium fluoaluminate	As described under § 205.602(g).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Atropine	As described under § 205.603(a)(3).
Fenbendazole	As described under § 205.603(a)(23)(i).
Hydrogen peroxide	As described under § 205.603(a)(15).
Iodine	As described under § 205.603(a)(16).
Iodine	As described under § 205.603(b)(4).
Magnesium sulfate	As described § 205.603(a)(19).
Moxidectin	As described under § 205.603(a)(23)(ii).
Peroxyacetic/Peracetic acid	As described under § 205.603(a)(24).
Xylazine	As described under § 205.603(a)(30).
DL-Methionine	As described under § 205.603(d)(1).
Trace Minerals	As described under § 205.603(d)(2).
Vitamins	As described under § 205.603(d)(3).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)):''	
Acids (Citric—produced by microbial fermentation of carbohydrate substances; and Lactic)	As described under § 205.605(a).
Calcium chloride	As described under § 205.605(a).
Enzymes	As described under § 205.605(a).
L-malic acid	As described under § 205.605(a).
Magnesium sulfate	As described under § 205.605(a).
Microorganisms	As described under § 205.605(a).
Perlite	As described under § 205.605(a).
Potassium iodide	As described under § 205.605(a).
Yeast	As described under § 205.605(a).
Activated charcoal	As described under § 205.605(b).
Ascorbic acid	As described under § 205.605(b).
Calcium citrate	As described under § 205.605(b).
Ferrous sulfate	As described under § 205.605(b).
Hydrogen peroxide	As described under § 205.605(b).
Nutrient vitamins and minerals	As described under § 205.605(b).
Peracetic acid/Peroxyacetic acid	As described under § 205.605(b).
Potassium citrate	As described under § 205.605(b).
Potassium phosphate	As described under § 205.605(b).
Sodium acid pyrophosphate	As described under § 205.605(b).
Sodium citrate	As described under § 205.605(b).
Tocopherols	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic:''	
Celery powder	As described under § 205.606(c).
Fish oil	As described under § 205.606(e).
Gelatin	As described under § 205.606(g).
Orange pulp (dried)	As described under § 205.606(n).
Seaweed, Pacific kombu	As described under § 205.606(r).
Wakame seaweed (*Undaria pinnatifida*)	As described under § 205.606(v).

[1] National Organic Program; Proposed Amendments to the National List of Allowed and Prohibited Substances (2022 Sunset). AMS–NOP–19–0106 (both 2019 mtgs and 2020 mtgs).

Table 2 lists the substance exemptions being renewed through this document that were reviewed by the NOSB in calendar year 2020. These specific substance allowances and prohibitions continue as listed on the National List with a new sunset date of March 15, 2027.

TABLE 2—NATIONAL LIST SUBSTANCES RENEWED

[Reviewed by NOSB in 2020]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Soap-based algicide/demossers	As described under § 205.601(a)(7).
Ammonium Carbonate	As described under § 205.601(e)(1).
Soaps, insecticidal	As described under § 205.601(e)(8).
Vitamin D_3	As described under § 205.601(g).
Aquatic plant extracts	As described under § 205.601(j)(1).
Lignin sulfonate	As described under § 205.601(j)(4).
Sodium silicate	As described under § 205.601(l).
EPA List 4	As described under § 205.601(m)(1).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Arsenic	As described under § 205.602(b).
Strychnine	As described under § 205.601(i).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Butorphanol	As described under § 205.603(a)(5).
Flunixin	As described under § 205.603(a)(12).
Magnesium hydroxide	As described under § 205.603(a)(18).
Poloxalene	As described under § 205.603(a)(26).
Formic acid	As described under § 205.603(b)(3).
EPA List 4	As described under § 205.603(e)(1).
Excipients	As described under § 205.603(f).
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production:	
Strychnine	As described under § 205.604(a).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)):''	
Kaolin	As described under § 205.605(a).
Sodium bicarbonate	As described under § 205.605(a).
Waxes	As described under § 205.605(a).
Ammonium bicarbonate	As described under § 205.605(b).
Ammonium Carbonate	As described under § 205.605(b).
Calcium phosphates	As described under § 205.605(b).
Ozone	As described under § 205.605(b).
Sodium hydroxide	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural ingredients allowed as ingredients in or on processed products labeled as ''organic:''	
Carnauba wax	As described under § 205.606(a).
Beet juice extract color	As described under § 205.606(d)(1).
Black/purple carrot juice color	As described under § 205.606(d)(4).
Chokeberry, aronia juice color	As described under § 205.606(d)(8).
Elderberry juice color	As described under § 205.606(d)(9).
Grape skin extract color	As described under § 205.606(d)(11).
Purple sweet potato juice color	As described under § 205.606(d)(14).
Red cabbage extract color	As described under § 205.606(d)(15).
Red radish extract color	As described under § 205.606(d)(16).
Saffron extract color	As described under § 205.606(d)(17).
Glycerin	As described under § 205.606(h).
Inulin-oligofructose enriched	As described under § 205.606(j).
Orange shellac-unbleached	As described under § 205.606(o).
Cornstarch (native)	As described under § 205.606(s)(1).

Authority: 7 U.S.C. 6501–6524.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–16518 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1470

[Docket No. NRCS–2019–0020]

RIN 0578–AA67

Conservation Stewardship Program (CSP); Corrections

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Correcting amendments.

SUMMARY: The Commodity Credit Corporation (CCC) revised the Conservation Stewardship Program (CSP) regulation in the final rule published in the **Federal Register** on October 9, 2020, in response to public comments. Changes were published in the final rule that revised the definition for resource-conserving crop. As part of a recent review, a technical error in the definition of ''resource-conserving crop'' was discovered. This document corrects the error. In addition, there was an inadvertent error and the definition for ''resource-conserving crop rotation'' needs to be reinstated; the definition remains unchanged from the interim rule as published in the **Federal Register** on November 12, 2019.

DATES: *Effective:* August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Michael Whitt. Phone: (202) 690–2267 or email: *michael.whitt@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION: CCC revised the definition for ''resource-conserving crop'' in 7 CFR 1470.3 in the final rule published in the **Federal Register** on October 9, 2020 (85 FR 63993–64003). As part of a recent review, a technical error in the definition of ''resource-conserving crop'' was discovered. This document corrects the error.

CCC previously revised the definition for ''resource-conserving crop rotation'' in 7 CFR 1470.3 in the interim rule published in the **Federal Register** on November 12, 2019 (84 FR 60883–60900). It appears that when the definition for ''resource-conserving crop'' was revised in October that the definition for ''resource-conserving crop rotation'' was inadvertently removed. This document reinstates the definition for ''resource-conserving crop rotation'' as it appeared in the November 2019 interim rule.

List of Subjects in 7 CFR Part 1470

Administrative practice and procedure, Agricultural commodities, Agriculture, Conservation activities, Forests and forest products, Government contracts, Grazing lands, Natural resources, Soil conservation, Technical assistance, Water resources, Water supply, Wildlife.

Accordingly, 7 CFR part 1470 is corrected by making the following correcting amendments:

PART 1470—CONSERVATION STEWARDSHIP PROGRAM

■ 1. The authority citation for part 1470 continues to read as follows:

Authority: 16 U.S.C. 3839aa–21—3839aa–25.

■ 2. Amend § 1470.3 as follows:

■ a. Remove the two definitions for ''resource-conserving crop''; and

■ b. Add a new definition for ''resource-conserving crop'' and a definition for ''Resource-conserving crop rotation'' in alphabetical order.

The additions read as follows:

§ 1470.3 Definitions.

* * * * *

Resource-conserving crop means a crop that is one of the following, as determined by NRCS:

(1) A perennial grass;

(2) A legume grown for use as a cover crop, forage, seed for planting, or green manure;

(3) A legume-grass mixture or grass-forb mixture; or

(4) A non-fragile residue or high residue crop or a crop that efficiently uses soil moisture, reduces irrigation water needs, or is considered drought tolerant.

Resource-conserving crop rotation means a crop rotation that—

(1) Includes at least one resource-conserving crop as determined by NRCS;

(2) Reduces erosion;

(3) Improves soil fertility and tilth;

(4) Interrupts pest cycles;

(5) Builds soil organic matter; and

(6) In applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

* * * * *

Robert Stephenson,

Executive Vice President, Commodity Credit Corporation.

Terry Cosby,

Chief, Natural Resources Conservation Service.

[FR Doc. 2021–16288 Filed 8–2–21; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0385; Airspace Docket No. 21–AGL–21]

RIN 2120–AA66

Amendment of Class D and Class E Airspace and Revocation of Class E Airspace; Columbus, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace and Class E airspace at Columbus, OH, and revokes the Class E airspace extending upward from 700 feet above the surface at Darby Dan Airport, Columbus, OH. This action is the result of an airspace review caused by the decommissioning of the Rickenbacker International Airport runway 5R middle marker and the cancellation of the instrument procedures at Darby Dan Airport. The name and geographic coordinates of the various airports are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class D airspace at Ohio State University Airport, Columbus, OH, and Rickenbacker International Airport, Columbus, OH, and the Class E airspace extending upward from 700 feet above the surface at John Glenn Columbus International Airport, Columbus, OH, and Rickenbacker International Airport, and revokes the Class E airspace extending upward from 700 feet above the surface at Darby Dan Airport, Columbus, OH, to support instrument flight rule operations at these airports.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 28729; May 28, 2021) for Docket No. FAA–2021–0385 to amend the Class D airspace and Class E airspace at Columbus, OH, and revoke the Class E airspace extending upward from 700 feet above the surface at Darby Dan Airport, Columbus, OH. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000 and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Differences From the NPRM

Subsequent to publication of the NPRM, the FAA discovered a typographic error in the NPRM. The NPRM published the airport name of ''Darby Dan Airport'' as ''Dan Darby Airport.'' As the correction does not affect the airspace as proposed, it is incorporated into this rule.

The Rule

This amendment to 14 CFR part 71:

Amends the Class D airspace at Ohio State University Airport, Columbus Ohio by removing the name of the airport from the header of the airspace legal description to comply with changes to FAA Order 7400.2N, Procedures for Handling Airspace Matters; removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order 7400.2N; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amends the Class D airspace to within a 4.6-mile (increased from a 4.5-mile) radius of Rickenbacker International Airport, Columbus, OH; removes the airport name from the header of the airspace legal description to comply with changes to FAA Order 7400.2N; and removes the city associated with the airport to comply with changes to FAA Order 7400.2N;

And amends the Class E airspace extending upward from 700 feet above the surface to within a 7.5-mile (increased from a 7-mile) radius of John Glenn Columbus International Airport, Columbus, OH; updates the name of John Glenn Columbus International Airport (previously Port Columbus International Airport) to coincide with the FAA's aeronautical database; removes the cities associated with the airports to comply with changes to FAA Order 7400.2N; within a 7.1-mile (increased from a 7-mile) radius of Rickenbacker International Airport; within 4 miles each side of the 045° bearing from Rickenbacker International Airport extending from the 7.1-mile (previously 7-mile) radius to 12.6 miles (increased from 12.5 miles) northeast of the Rickenbacker International Airport; updates the geographic coordinates of Ohio State University Airport to coincide with the FAA's aeronautical database; removes Darby Dan Airport, Columbus, OH, and the associated airspace as the instrument procedures at this airport have been cancelled and the airspace is no longer required; and removes the exclusionary language from the airspace legal description as it is not required.

This action is necessary due to airspace reviews caused by the decommissioning of the Rickenbacker International Airport runway 5R middle maker, which provided navigation information for the instrument procedures at this airport, and the cancellation of the instrument procedures at Darby Dan Airport, Columbus, OH.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL OH D Columbus, OH [Amended]

Ohio State University Airport, OH
(Lat. 40°04′46″ N, long. 83°04′24″ W)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Ohio State University Airport, excluding that airspace within the Columbus, Port Columbus International Airport, OH, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

AGL OH D Columbus, OH [Amended]

Rickenbacker International Airport, OH
(Lat. 39°48′50″ N, long. 82°55′40″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.6-mile radius of Rickenbacker International Airport, excluding that airspace within the Columbus, Port Columbus International Airport, OH, Class C airspace area.

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

* * * * *

AGL OH E5 Columbus, OH [Amended]

John Glenn Columbus International Airport, OH
(Lat. 39°59′49″ N, long. 82°53′32″ W)
Rickenbacker International Airport, OH
(Lat. 39°48′50″ N, long. 82°55′40″ W)
Ohio State University Airport, OH
(Lat. 40°04′46″ N, long. 83°04′24″ W)
Bolton Field Airport, OH
(Lat. 39°54′04″ N, long. 83°08′13″ W)
Fairfield County Airport, OH
(Lat. 39°45′20″ N, long. 82°39′26″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of John Glenn Columbus International Airport, and within 3.3 miles either side of the 094° bearing from John Glenn Columbus International Airport extending from the 7.5-mile radius to 12.1 miles east of the airport, and within a 7.1-mile radius of Rickenbacker International Airport, and within 4 miles either side of the 045° bearing from Rickenbacker International Airport extending from the 7.1-mile radius to 12.6 miles northeast of the airport, and within a 6.5-mile radius of Ohio State University Airport, and within a 7.4-mile radius of Bolton Field Airport, and within a 7-mile radius of Fairfield County Airport.

Issued in Fort Worth, Texas, on July 28, 2021.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–16390 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0355; Airspace Docket No. 21–AEA–7]

RIN 2120–AA66

Amendment of Class E Airspace; Massena, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E surface area and Class E airspace extending upward from 700 feet above the surface at Massena International-Richards Field Airport, Massena, NY. The FAA is taking this action as a result of an airspace review caused by the decommissioning of the Massena Very High Frequency Omnidirectional Range (VOR) Tactical Air Navigation (VORTAC) navigation aid as part of the VOR Minimum Operational Network (MON) Program. This action also updates the geographic coordinates of Massena International-Richards Field Airport, Massena, NY, to coincide with the FAA's database. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rule 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 amends Class E airspace in Massena, NY, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 27331, May 20, 2021) for Docket No. FAA–2021–0355 to e amend Class E surface airspace and Class E airspace extending up from 700 feet above the surface for Massena International-Richards Field Airport, Massena, NY. In addition, the FAA proposed the geographical coordinates of Massena International-Richards Field Airport, Massena, NY, be updated to coincide with the FAA's database.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by amending Class E surface airspace and Class E airspace extending upward from 700 feet above the surface for Massena International-Richards Field Airport, Massena, NY, as the Massena VORTAC has been decommissioned and all associated airspace extensions of Class E surface airspace and Class E airspace extending upward from 700 feet above the surface, off the Massena VORTAC have been eliminated. The Class E Surface airspace is amended by increasing the radius of the airport to 6.0 miles (previously 4.0 miles), and the Class E airspace extending upward from 700 feet above the surface is amended by increasing the radius to 8.5 miles (previously 7.4 miles). In addition, the geographical coordinates of Massena International-Richards Field Airport, Massena, NY, are updated to coincide with the FAA's database.

These changes are necessary for continued safety and management of IFR operations in the area.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6002 Class E Surface Airspace.

* * * * *

AEA NY E2 Massena, NY [Amend]

Massena International-Richards Field Airport, Massena, NY
(Lat. 44°56′10″ N, long. 74°50′42″ W)

That airspace extending upward from the surface within a 6.0-mile radius of the Massena International-Richards Field Airport excluding that airspace outside of the United States.

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

* * * * *

AEA NY E5 Massena, NY [Amend]

Massena International-Richards Field Airport, Massena, NY
(Lat. 44°56′10″ N, long. 74°50′42″ W)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Massena International-Richards Field Airport excluding that airspace outside of the United States.

Issued in College Park, Georgia, on June 17, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–16381 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0328; Airspace Docket No. 21–ASO–5]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace by removing unnecessary verbiage from the description, and Class E surface airspace in Savannah, GA, by updating the dividing line between Savannah/Hilton Head International Airport and Hunter Army Airfield, and separating the descriptions of the two airports under the surface E airspace. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave.,

College Park, GA 30337; Telephone (404) 305–6364.

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 amends Class D and E airspace in Savannah, GA.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 26861, May 18, 2021) for Docket No. FAA–2021–0328 to amend Class D airspace by removing (previously called Airport/Facility Directory) from the description, as it is unnecessary, and Class E surface airspace in Savannah, GA by updating the dividing line separating the airspace between Savannah/Hilton Head International Airport and Hunter AAF.

Differences From the NPRM: Subsequent to publication of the NPRM, the FAA found the Class E surface descriptions should be defined under separate headers to alleviate pilot confusion. This action makes this adjustment.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in Paragraphs 5000, and 6002, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by amending the Class D airspace by removing (previously called Airport/Facility Directory) from the description, as it is unnecessary, and Class E surface airspace in Savannah, GA by updating the dividing line separating the airspace between Savannah/Hilton Head International Airport and Hunter AAF. Also, the Class E surface airspace for Savannah/Hilton Head International Airport and Hunter AAF will now be listed under each airport's own header.

This action is a result of an airspace review of the Savannah area.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Savannah/Hunter AAF, GA [New]

Hunter AAF, GA
(Lat. 32°00′36″ N, long. 81°08′46″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Hunter AAF; excluding that portion of the overlying Savannah, GA Class C airspace area and that airspace north of lat. 32°02′30″ N. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO GA E2 Savannah, GA [Amended]

Savannah/Hilton Head International Airport, GA
(Lat. 32°07′39″ N, long. 81°12′08″ W)

That airspace extending upward from the surface within a 5-mile radius of Savannah/Hilton Head International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

ASO GA E2 Savannah/Hunter AAF, GA [New]

Hunter AAF, GA
(Lat. 32°00′36″ N, long. 81°08′46″ W)

That airspace extending upward from the surface within a 4.5-mile radius of Hunter AAF, excluding that airspace north of lat. 32°02′30″ N. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on July 27, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–16380 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0386; Airspace Docket No. 21–ASW–8]

RIN 2120–AA66

Amendment of Class E Airspace; Hondo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at South Texas Regional Airport at Hondo, Hondo, TX. This action is the result of an airspace review due to the decommissioning of the Hondo non-directional beacon (NDB). The name and geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class E airspace extending upward from 700 feet above the surface at South Texas Regional Airport at Hondo, Hondo, TX, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 28726; May 28, 2021) for Docket No. FAA–2021–0386 to amend the Class E airspace extending upward from 700 feet above the surface at South Texas Regional Airport at Hondo, Hondo, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface at South Texas Regional Airport at Hondo, Hondo, TX, by removing the Hondo RBN, the Hondo VOR, and the associated extensions from the airspace legal description as they are no longer required; and updates the name (previously Hondo Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review caused by the decommissioning of the Hondo NDB which provided navigation information for the instrument procedures at this airport.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

ASW TX E5 Hondo, TX [Amended]

South Texas Regional Airport at Hondo, TX
(Lat. 29°21′33″ N, long. 99°10′39″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the South Texas Regional Airport at Hondo.

Issued in Fort Worth, Texas, on July 28, 2021.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–16389 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1155; Airspace Docket No. 20–ASO–28]

RIN 2120–AA66

Amendment of Area Navigation (RNAV) Route Q–34; Northeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Area Navigation (RNAV) route Q–34 in the northeastern United States in support of the Northeast Corridor Atlantic Coast Route Project (NEC ACR) for improved efficiency of the National Airspace System (NAS) while reducing the dependency on ground based navigational systems.

DATES: Effective date 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV routes in the NAS, increases airspace capacity, and reduces complexity in high air traffic volume areas.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2020–1155 in the **Federal Register** (86 FR 3889; January 15, 2021), amending RNAV route Q–34 in the northeastern United States in support of the Northeast Corridor Atlantic Coast Route Project (NEC ACR) for improved efficiency of the National Airspace System (NAS) while reducing the dependency on ground based navigational systems.

United States area navigation routes are published in paragraph 2006 of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The United States area navigation route listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 to amend RNAV route Q–34, in the northeastern United States to support the Northeast Corridor Atlantic Coast Route project developed Performance Based Navigation (PBN) routes involving the Washington, Boston, New York, and Jacksonville Air Route Traffic Control Centers (ARTCC). The NEC ACR route also ties-in to the existing high altitude RNAV route structure enabling more efficient direct routings between the U.S. east coast and Caribbean area locations.

Q–34: Q–34 will extend between the Texarkana, AR (TXK), VORTAC to the Robbinsville, NJ (RBV), VORTAC.

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

Regulatory Notices and Analyses

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

The FAA has determined that this airspace action of amending RNAV route Q–34 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–34 TEXARKANA, AR (TXK) TO ROBBINSVILLE, NJ (RBV) [AMEND]

Texarkana, AR (TXK)	VORTAC	(Lat. 33°30′49.97″ N, long. 094°04′23.67″ W)
LOOSE, AR	WP	(Lat. 33°53′46.88″ N, long. 093°05′08.38″ W)
MATIE, AR	FIX	(Lat. 34°05′41.96″ N, long. 092°33′02.35″ W)
MEMFS, TN	WP	(Lat. 35°00′54.62″ N, long. 089°58′58.87″ W)
SWAPP, TN	FIX	(Lat. 36°36′49.78″ N, long. 085°10′56.04″ W)
GHATS, KY	FIX	(Lat. 36°48′06.75″ N, long. 084°34′02.44″ W)
FOUNT, KY	FIX	(Lat. 36°57′24.34″ N, long. 084°03′01.92″ W)
TONIO, KY	FIX	(Lat. 37°15′15.20″ N, long. 083°01′47.53″ W)
KONGO, KY	FIX	(Lat. 37°30′19.46″ N, long. 082°08′12.56″ W)
NEALS, WV	FIX	(Lat. 37°35′45.99″ N, long. 081°48′24.62″ W)
SITTR, WV	WP	(Lat. 37°46′49.13″ N, long. 081°07′23.70″ W)
ASBUR, WV	FIX	(Lat. 37°49′24.41″ N, long. 080°27′51.44″ W)
DENNY, VA	FIX	(Lat. 37°52′00.15″ N, long. 079°44′13.75″ W)
MAULS, VA	WP	(Lat. 37°52′49.36″ N, long. 079°19′49.19″ W)
Gordonsville, VA (GVE)	VORTAC	(Lat. 38°00′48.96″ N, long. 078°09′10.90″ W)
BOOYA, VA	WP	(Lat. 38°24′20.50″ N, long. 077°21′46.36″ W)
DUALY, MD	WP	(Lat. 38°45′53.59″ N, long. 076°50′33.76″ W)
BIGRG, MD	WP	(Lat. 39°15′13.92″ N, long. 076°07′13.77″ W)
PNGWN, NJ	WP	(Lat. 39°39′27.07″ N, long. 075°30′41.79″ W)
HULKK, NJ	WP	(Lat. 39°59′53.04″ N, long. 074°58′52.52″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)

* * * * *

Issued in Washington, DC, on July 28, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–16432 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0413; Airspace Docket No. 21–ASW–9]

RIN 2120–AA66

Amendment of Class D and Class E Airspace and Establishment of Class E Airspace; Waco, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D and Class E airspace and establishes Class E airspace at airports in Waco, TX. This action is the result of a biennial airspace review. The name and geographic coordinates of various airports are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class D airspace and Class E surface area airspace at Waco Regional Airport, Waco, TX; establishes Class E surface area airspace at TSTC Waco Airport, Waco, TX; establishes Class E airspace extending upward from 700 feet above the surface at Marlin Airport, Waco, TX; and amends the Class E airspace extending upward from 700 feet above the surface at Waco Regional Airport, TSTC Waco Airport, and McGregor Executive Airport, Waco, to support instrument flight rule operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 28722; May 28, 2021) for Docket No. FAA–2021–0413 to amend the Class D and Class E airspace and establish Class E airspace at airports in Waco, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Differences From the NPRM

The verbiage for the extension north of McGregor Executive Airport contained within the Class E airspace extending upward from 700 feet above the surface is being changed from ''. . . and within 6 miles each side of the 185° radial from the Waco VORTAC extending from the 6.6-mile radius of McGregor Executive Airport to the Waco VORTAC . . .'' to ''. . . and within 6 miles each side of the 185° radial from the Waco VORTAC extending from the Waco VORTAC south to the 6.6-mile radius of McGregor Executive Airport . . .'' to clarify the airspace description for charting purposes. As the change does not affect the airspace as proposed, it is incorporated into this rule.

The Rule

This amendment to 14 CFR part 71:

Amends the Class D airspace to within a 4.2-mile (decreased from a 4.5-mile) radius of Waco Regional Airport, Waco, TX; adds an extension 1 mile each side of the 149° bearing from the airport extending from the 4.2-mile radius to 4.3 miles southeast of the airport; removes the city associated with the airport to comply with changes to FAA Order 7400.2N, Procedures for Handling Airspace Matters; and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amends the Class D airspace legal description at TSTC Waco Airport, Waco, TX, by removing the airport name from the airspace legal description header to comply with changes to FAA Order 7400.2N; removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order 7400.2N; updates the name of the airport (previously TSTC-Waco Airport) to coincide with the FAA's aeronautical database; and replaces the outdated term ''Airfield/Facility Directory'' with ''Chart Supplement'';

Amends the Class E surface area airspace to within a 4.2-mile (decreased from a 4.5-mile) radius of Waco Regional Airport; adds an extension 1 mile each side of the 149° bearing from the airport extending from the 4.2-mile radius to 4.3 miles southeast of the airport; removes the TSTI-Waco Airport, Waco, TX, and the associated airspace from the airspace legal description (A separate airspace legal description is being created to reduce confusion regarding Class D and E service availability at the two airports.); and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Establishes Class E surface area airspace within a 4.4-mile radius of TSTC Waco Airport;

Establishes Class E airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Marlin Airport, Waco, TX; and within 1.8 miles each side of the 123° radial from the Waco VORTAC extending from the 6.3-mile radius from Marlin Airport to 13.1 miles northwest of the airport;

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile (decreased from a 11.5-mile) radius of Waco Regional Airport; removes the extension north of the VORTAC as it is no longer needed; adds an extension 3.7 miles each side of the 014° bearing from the Waco RGNL: RWY 19–LOC extending from the 6.7-mile radius from Waco Regional Airport to 15.3 miles north of the Waco Regional Airport; adds an extension 2.5 miles each side of the 328° radial from the Waco VORTAC extending from the 6.7-mile radius from Waco Regional Airport to 10 miles northwest of the Waco VORTAC; within a 6.9-mile (decreased from a 7.9-mile) radius of TSTC Waco Airport; removes the Leroi NDB and the associated extension as they are no longer needed; adds an extension 1 mile each side of the 179° bearing from the McGregor Executive Airport, Waco, TX, extending from the 6.6-mile radius from McGregor Executive Airport to 6.7-miles south of McGregor Executive Airport; adds an extension 6 miles each side of the 005° radial from the Waco VORTAC extending from the Waco VORTAC to 10 miles north of the Waco VORTAC; adds an extension 6 miles each side of the 185° radial from the Waco VORTAC extending from the Waco VORTAC south to the 6.6 mile radius from the McGregor Executive Airport; removes the Marlin Airport and associated airspace from the airspace legal description as it no longer adjoins this

airspace and separate airspace has been established for this airport; and updates the names of Waco Regional Airport (previously Regional Airport), TSTC Waco Airport (previously TSTC-Waco Airport) and McGregor Executive Airport (previously McGregor Municipal Airport) and the geographic coordinates of Waco Regional Airport and the Waco VORTAC to coincide with the FAA's aeronautical database.

These actions are the result of biennial airspace reviews.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Waco, TX [Amended]

Waco Regional Airport, TX
(Lat. 31°36′44″ N, long. 97°13′49″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.2-mile radius of Waco Regional Airport, and within 1 mile each side of the 149° bearing from the airport extending from the 4.2-mile radius from the airport to 4.3 miles southeast of the airport. This Class D airspace area is effective during the specific dates in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Chart Supplement.

ASW TX D Waco, TX [Amended]

TSTC Waco Airport, TX
(Lat. 31°38′16″ N, long. 97°04′27″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.4-mile radius of TSTC Waco Airport, excluding that airspace within the Waco Regional Airport Class D airspace and Class E surface area airspace. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ASW TX E2 Waco, TX [Amended]

Waco Regional Airport, TX
(Lat. 31°36′44″ N, long. 97°13′49″ W)

That airspace extending upward from the surface within a 4.2-mile radius of Waco Regional Airport, and within 1 mile each side of the 149° bearing from the airport extending from the 4.2-mile radius from the airport to 4.3 miles southeast of the airport. This Class E airspace area is effective during the specific dates in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Chart Supplement.

ASW TX E2 Waco, TX [Established]

TSTC Waco Airport, TX
(Lat. 31°38′16″ N, long. 97°04′27″ W)

That airspace extending upward from the surface within a 4.4-mile radius of TSTC Waco Airport, excluding that airspace within the Waco Regional Airport Class D airspace and Class E surface area airspace. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Chart Supplement.

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

* * * * *

ASW TX E5 Waco, TX [Established]

Marlin Airport, TX
(Lat. 31°20′26″ N, long. 96°51′07″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Marlin Airport, and within 1.8 miles each side of the 123° radial of the Waco VORTAC extending from the 6.3-mile radius to 13.1 miles northwest of the airport.

ASW TX E5 Waco, TX [Amended]

Waco Regional Airport, TX
(Lat. 31°36′44″ N, long. 97°13′49″ W)
Waco RGNL: RWY 19–LOC
(Lat. 31°36′07″ N, long. 97°13′49″ W)
Waco VORTAC
(Lat. 31°39′44″ N, long. 97°16′08″ W)
TSTC Waco Airport, TX
(Lat. 31°38′16″ N, long. 97°04′27″ W)
McGregor Executive Airport, TX
(Lat. 31°29′06″ N, long. 97°19′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Waco Regional Airport, and within 3.7 miles each side of the 014° bearing from the Waco RGNL: RWY 19–LOC extending from the 6.7-mile radius of Waco Regional Airport to 15.3 miles north of Waco Regional Airport, and within 2.5 miles each side of the 328° radial from the Waco VORTAC extending from the 6.7-mile radius of Waco Regional Airport to 10 miles northwest of the Waco VORTAC, and within a 6.9-mile radius of TSTC Waco Airport, and within a 6.6-mile radius of McGregor Executive Airport, and within 1 mile each side of the 179° bearing from the McGregor Executive Airport extending from the 6.6-mile radius of McGregor Executive Airport to 6.7 miles south of McGregor Executive Airport, and within 6 miles each side of the 005° radial from the Waco VORTAC extending from the Waco VORTAC to 10 miles north of the Waco VORTAC, and within 6 miles each side of the 185° radial from the Waco VORTAC extending from the Waco VORTAC south to the 6.6-mile radius of McGregor Executive Airport.

Issued in Fort Worth, Texas, on July 28, 2021.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–16393 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0387; Airspace Docket No. 21–AGL–24]

RIN 2120–AA66

Amendment of Class D and Class E Airspace, Revocation of Class E Airspace and Establishment of Class E Airspace; Carbondale and Marion, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace and Class E airspace at Carbondale, IL, and Marion, IL; revokes the Class E airspace area designated as an extension to Class D airspace at Veterans Airport of Southern Illinois, Marion, IL; and establishes Class E airspace extending upward from 700 feet above the surface at Southern Illinois Airport, Carbondale/Murphysboro, IL. This action is the result of an airspace review caused by the decommissioning of the Marion very high frequency (VHF) omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program. The names and geographic coordinates of the airports are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 7, 2021. 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 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, FederAviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 amends the Class D airspace at Southern Illinois Airport, Carbondale/Murphysboro, IL, and Veterans Airport of Southern Illinois, Marion, IL; revokes the Class E airspace area designated as an extension to Class D airspace at Veterans Airport of Southern Illinois; establishes Class E airspace extending upward from 700 feet above the surface at Southern Illinois Airport; and amends the Class E airspace extending upward from 700 feet above the surface at Veterans Airport of Southern Illinois to support instrument flight rule operations at these airports.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 28724; May 28, 2021) for Docket No. FAA–2021–0387 to amend the Class D airspace and Class E airspace at Carbondale, IL, and Marion, IL; revoke the Class E airspace area designated as an extension to Class D airspace at Veterans Airport of Southern Illinois, Marion, IL; and establish Class E airspace extending upward from 700 feet above the surface at Southern Illinois Airport, Carbondale/Murphysboro, IL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71:

Amends the Class D airspace to within a 4.2-mile (increased from a 4.1-mile) radius of Southern Illinois Airport, Carbondale/Murphysboro, IL; updates the header of the airspace legal description from ''Carbondale, IL'' to ''Carbondale/Murphysboro, IL'' to coincide with the FAA's aeronautical database; removes the city associated with the airport to comply with changes to FAA Order 7400.2N, Procedures for Handling Airspace Matter; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement':

Amends the Class D airspace to within a 4.4-mile (increased from a 4.2-mile) radius of Veterans Airport of Southern Illinois, Marion, IL; removes the city associated with the airport to comply with changes to FAA Order 7400.2N; updates the name (previously Williamson County Regional Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Revokes the Class E airspace area designated as an extension to Class D airspace at Veterans Airport of Southern Illinois as it is no longer required;

Establishes Class E airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Southern Illinois Airport; and within 4 miles each side of the 181° bearing of the airport extending from the 6.7-mile radius to 11.8 miles south of the airport;

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.9-mile radius of Veterans Airport of Southern Illinois; removes Southern Illinois Airport from the airspace legal description as a separate airspace legal description is being established for this airspace; updates the name of the airport (previously Williamson County Regional Airport) to coincide with the

FAA's aeronautical database; and removes the current airspace boundary to be replaced by the radius from the airport.

This action is necessary due to airspace reviews caused by the decommissioning of the Marion VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL IL D Carbondale/Murphysboro, IL [Amended]

Southern Illinois Airport, IL
(Lat. 37°46′41″ N, long. 89°15′07″ W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.2-mile radius of the Southern Illinois Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

AGL IL D Marion, IL [Amended]

Veterans Airport of Southern Illinois, IL
(Lat. 37°45′18″ N, long. 89°00′40″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.4-mile radius of the Veterans Airport of Southern Illinois. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AGL IL E4 Marion, IL [Removed]

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

* * * * *

AGL IL E5 Carbondale/Murphysboro, IL [Established]

Southern Illinois Airport, IL
(Lat. 37°46′41″ N, long. 89°15′07″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the airport, and within 4 miles each side of the 181° bearing from the airport extending from the 6.7-mile radius to 11.8 miles south of the airport.

* * * * *

AGL IL E5 Marion, IL [Amended]

Veterans Airport of Southern Illinois, IL
(Lat. 37°45′18″ N, long. 89°00′40″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the airport.

Issued in Fort Worth, Texas, on July 28, 2021.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–16391 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0607]

RIN 1625–AA00

Safety Zone; South Timbalier Block 22, Gulf of Mexico, Port Fourchon, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters within a one nautical mile radius around a capsized vessel in the Gulf of Mexico, South Timbalier block 22, near Port Fourchon, LA. The temporary safety zone is needed to protect life and property during emergency salvage operations surrounding the capsized vessel. Entry of vessels or persons into this zone and movement of vessels within this zone is prohibited unless specifically authorized by the Captain of the Port Marine Safety Unit Houma or a designated representative.

DATES: This rule is effective without actual notice from August 3, 2021 through December 31, 2021. For the purposes of enforcement, actual notice will be used from August 2, 2021 until August 3, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0607 in the ''SEARCH'' box and click ''SEARCH.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Commander Matthew M. Spolarich, Chief of Prevention, U.S. Coast Guard; telephone 985–850–6437, email: *Matthew.M.Spolarich@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. A safety zone is necessary to facilitate safe salvage operations surrounding a capsized vessel that has garnered high media interest and is in a location frequented by commercial and recreational vessel traffic. Immediate action is needed to respond to the potential safety hazards associated with recovery salvage operations. We must establish this safety zone by August 2, 2021 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to ensure the safety of vessels transiting the area and support continue ongoing recovery salvage operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Marine Safety Unit Houma (COTP) has determined that potential hazards associated with the recovery salvage operations continuing through December 31, 2021, will be a safety concern for anyone within a one nautical mile radius around the capsized vessel in South Timbalier Block 22 of the Gulf of Mexico at position 29°–00′ 25.7877″ N, 090°–11′ 52.9852″ W. This rule is needed to protect life and property on the navigable waters while recovery salvage operations are ongoing.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from August 2, 2021 through December 31, 2021. The safety zone will cover all navigable waters within a one nautical mile radius around position 29–00′ 25.7877″ N, 090–11′ 52.9852″ W, in South Timbalier Block 22 of the Gulf of Mexico, near Port Fouchon, LA. The duration of the zone is intended to protect life and property on these navigable waters for the duration of emergency recovery salvage operations related to the capsized vessel. No vessel or person will be permitted to enter and move within the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Houma. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67. Persons and vessels permitted to enter or to move within this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement periods and changes through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited scale of the safety zone and the ease of vessel traffic navigating around said zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within a one nautical mile radius of vessels and machinery being used by personnel response operations to a capsized vessel. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0607 to read as follows:

§ 165.T08–0607 Safety Zone; South Timbalier Block 22, Gulf of Mexico, Port Fourchon, LA.

(a) *Location.* The following area is a safety zone: All navigable waters within a one nautical mile radius of the capsized vessel and emergency response operations taking place at 29°00′25.7877″ N, 090°11′52.9852″ W.

(b) *Effective period.* This section is effective from August 2, 2021 through December 31, 2021.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or remaining within this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Houma.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (985) 665–2437.

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

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

J.W. Russell,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Unit Houma.

[FR Doc. 2021–16505 Filed 8–2–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0500]

Safety Zone; Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel; Chicago River Between the Michigan Avenue Bridge and Columbus Drive Bridge, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone, on the main branch of the Chicago River between the Michigan Avenue Bridge and the Columbus Drive Bridge for the Chicago Ducky Derby Marine Event. During the enforcement period, entry into, transiting, mooring, laying-up, or anchoring within the established safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or an on-scene designated representative.

DATES: A segment of the regulation in 33 CFR 165.930 will be enforced on August 5, 2021, from 11 a.m. through 2 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Eric Krukar, Marine Safety Unit Chicago, U.S. Coast Guard; telephone: 630–986–2155, email: *Eric.R.Krukar@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the safety zone listed safety zone in 33 CFR 165.930. The segment of the safety zone to be enforced is between the Michigan Avenue Bridge and the Columbus Drive Bridge on the main branch of the Chicago River. This action is being taken to provide for the safety of life on navigable waterways during the Chicago Ducky Derby Marine Event. Our regulation for marine events within the Ninth Coast Guard District, § 165.930, specifies the Captain of the Port Lake Michigan, may enforce this safety zone in whole, in segments, or by any

combination of segments. The Captain of the Port Lake Michigan may suspend the enforcement of any segment of this safety zone for which notice of enforcement had been given.

During the enforcement periods, as reflected in § 165.930 (d), entry into, transiting, mooring, laying up, or anchoring within any enforced segment of the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or a designated representative. This notice of enforcement is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the above-specified enforcement periods of this safety zone via Broadcast Notice to Mariners and Local Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: July 28, 2021.

Donald P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2021–16457 Filed 8–2–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2021–0319; FRL–8742–02–R10]

Air Plan Approval; WA; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the regulatory materials incorporated by reference into the Washington State Implementation Plan (SIP). The regulations addressed in this action were previously submitted by the Washington Department of Ecology and approved by the EPA in prior rulemakings. This action is an administrative change that updates the SIP materials available for public inspection at the National Archives and Records Administration and the EPA Regional Office.

DATES: This action is effective August 3, 2021.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Online at *https://www.regulations.gov* in the docket for this action, by appointment at the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, and by appointment at the National Archives and Records Administration (NARA). For information on the availability of this material at the EPA Regional Office, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document revised by the state to address its unique and changing air pollution problems. As such, the state submits SIP revisions to the EPA and the EPA acts on those revisions and incorporates new and revised State regulations by reference into the Code of Federal Regulations (CFR).

On May 22, 1997, the EPA and the Office of the Federal Register (OFR) streamlined the incorporation by reference (IBR) procedures for SIPs (62 FR 27968). For a detailed description of the revised IBR procedures, please see the May 22, 1997 publication (62 FR 27968).

On March 20, 2013, the EPA published a **Federal Register** beginning the new IBR procedure for Washington (78 FR 17108). The EPA subsequently published updates to the IBR material for Washington on December 8, 2014 (79 FR 72548), April 12, 2016 (70 FR 21470), and February 8, 2019 (84 FR 2738).

A. Approved and Incorporated by Reference Regulatory Materials

Since the last IBR update, the EPA approved and incorporated by reference the following regulatory materials into the Washington SIP:

Table 1—Regulations Approved Statewide

- Washington Administrative Code, Chapter 173–405, Kraft Pulping Mills, sections 021 (Definitions), 072 (Monitoring Requirements), 086 (New Source Review (NSR)), and 087 (Prevention of Significant Deterioration (PSD)). For more information, see 85 FR 10983 (February 26, 2020).
- Washington Administrative Code, Chapter 173–410, Sulfite Pulping Mills, sections 021 (Definitions), 062 (Monitoring Requirements), 086 (New Source Review (NSR)), and 087 (Prevention of Significant Deterioration (PSD)). For more information, see 85 FR 10983 (February 26, 2020).
- Washington Administrative Code, Chapter 173–415, Primary Aluminum Plants, sections 015 (Applicability), 020 (Definitions), and 060 (Monitoring and Reporting). For more information, see 85 FR 10983 (February 26, 2020).

Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 025 (Adoption of Federal Rules), 030 (Definitions), 040 (General Standards for Maximum Emissions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 105 (Records, Monitoring, and Reporting), 171 (Public Notice and Opportunity for Public Comment), and 740 (PSD Permitting Public Involvement Requirements). For more information, see 85 FR 10301 (February 24, 2020).

Table 3—Additional Regulations Approved for the Energy Facilities Site Evaluation Council (EFSEC) Jurisdiction

- Washington Administrative Code, Chapter 463–78, General and Operating Permit Regulations for Air Pollution Sources, section 005 (Adoption by Reference). For more information, see 85 FR 4233 (January 24, 2020).
- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 025 (Adoption of Federal Rules), 030 (Definitions), 040 (General Standards for Maximum Emissions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 105 (Records, Monitoring, and Reporting), 111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 116 (Increment Protection), 171 (Public Notice and Opportunity for Public Comment), 710 (Definitions), 720 (Prevention of Significant Deterioration (PSD), 730 (Prevention of Significant Deterioration Application Processing Procedures), 740 (PSD Permitting Public Involvement Requirements), 810 (Major Stationary Source and Major Modification Definitions), 830 (Permitting Requirements), 840 (Emission Offset Requirements), and 850 (Actual Emissions Plantwide

Applicability Limitation (PAL). For more information, see 85 FR 4233 (January 24, 2020).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

• Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 025 (Adoption of Federal Rules), 030 (Definitions), 040 (General Standards for Maximum Emissions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 105 (Records, Monitoring, and Reporting), and 171 (Public Notice and Opportunity for Public Comment). For more information, see 85 FR 10301 (February 24, 2020).

Table 5—Additional Regulations Approved for the Northwest Clean Air Agency (NWCAA) Jurisdiction

• Regulation of the Northwest Clean Air Agency, sections 100 (Name of Agency), 101 (Short Title), 102 (Policy), 200 (Definitions), 300 (New Source Review), 305 (Public Involvement), 320 (Registration Program), and 321 (Exemptions from Registration). For more information, see 85 FR 36154 (June 15, 2020).

• Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 020 (Applicability), 025 (Adoption of Federal Rules), 030 (Definitions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 091 (Voluntary Limits on Emissions), 111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 112 (Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations), 113 (New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations), 117 (Special Protection Requirements for Federal Class I Areas), 118 (Designation of Class I, II, and III Areas), 131 (Issuance of Emission Reduction Credits), 136 (Use of Emission Reduction Credits (ERC)), 151 (Retrofit Requirements for Visibility Protection), 171 (Public Notice and Opportunity for Public Comment), 200 (Creditable Stack Height and Dispersion Techniques), 800 (Major Stationary Source and Major Modification in a nonattainment Area), 810 (Major Stationary Source and Major Modification Definitions), 820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 830 (Permitting Requirements), 840 (Emission Offset Requirements), 173–400–850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 860 (Public Involvement Procedures). For more information, see 85 FR 36154 (June 15, 2020).

Table 7—Additional Regulations Approved for the Puget Sound Clean Air Agency (PSCAA) Jurisdiction

• Puget Sound Clean Air Agency Regulation I, sections 1.01 (Policy), 1.07 (Definitions), 3.03(f) (General Regulatory Orders), 3.04 (Reasonably Available Control Technology), 3.25 (Federal Regulation Reference Date), 5.03 (Applicability of Registration Program), 5.05 (Registration Requirements), 6.01 (Components of New Source Review Program), 6.03 (Notice of Construction), 6.09 (Notice of Completion), 6.10 (Work Done without an Approval), 7.09 (General Reporting Requirements for Operating Permits), 9.03 (Emission of Air Contaminant: Visual Standard), 9.04 (Opacity Standards for Equipment with Continuous Opacity Monitoring Systems), 9.07 (Sulfur Dioxide Emission Standard), 9.08 (Fuel Oil Standards), 9.09 (Particulate Matter Emission Standards), 9.11(a) (Emission of Air Contaminant: Detriment to Person or Property), 9.13 (Emission of Air Contaminant: Concealment and Masking Restricted), 9.15 (Fugitive Dust Control Measures), 9.16 (Spray-Coating Operations), 9.18 (Crushing Operations), and 12.03 (Continuous Emission Monitoring Systems). For more information, see 85 FR 22355 (April 22, 2020).

• Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in Regulation I, sections 030 (Definitions), 081 (Startup and Shutdown), 110 (New Source Review (NSR) for Sources and Portable Sources, 111 (Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources), 112 (Requirements for New Sources in Nonattainment Areas), 113 (Requirements for New Sources in Attainment or Unclassifiable Areas), 117 (Special Protection Requirements for Federal Class I Areas), 171 (Public Notice and Opportunity for Public Comment), 200 (Creditable Stack Height and Dispersion Techniques), 560 (General Order of Approval), 800 (Major Stationary Source and Major Modification in a Nonattainment Area), 810 (Major Stationary Source and Major Modification Definitions), 820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 830 (Permitting Requirements), 840 (Emission Offset Requirements), 850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 860 (Public Involvement Procedures). For more information, see 85 FR 22355 (April 22, 2020).

• Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 020 (Applicability), 040 (General Standards for Maximum Emissions), 070 (Emission Standards for Certain Source Categories), 091 (Voluntary Limits on Emissions), 105 (Records, Monitoring and Reporting), 118 (Designation of Class I, II, and III Areas), 131 (Issuance of Emission Reduction Credits), 136 (Use of Emission Reduction Credits (ERC)), 151 (Retrofit Requirements for Visibility Protection), and 175 (Public Information). For more information, see 85 FR 22355 (April 22, 2020).

Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction

• Spokane Regional Clean Air Agency Regulation I, sections 1.01 (Policy), 1.02 (Name of Agency), 1.03 (Short Title), 1.04 (General Definitions), 1.05 (Acronym Index), 2.08 (Falsification of Statements or Documents, and Treatment of Documents), 2.09 (Source Tests), 2.13 (Federal and State Regulation Reference Date), 2.14 (Washington Administrative Codes (WACS)), 4.03 (Registration Exemptions), 4.04 (Stationary Sources and Source Categories Subject to Registration), 4.05 (Closure of a Stationary Source or Emissions Unit(s)), 5.02 (New Source Review—Applicability and when Required), 5.03 (NOC and PSP Fees), 5.04 (Information Required), 5.05 (Public Involvement), 5.06 (Application Completeness Determination), 5.07 (Processing NOC Applications for Stationary Sources), 5.08 (Portable Sources), 5.09 (Operating Requirements for Order of Approval and Permission to Operate), 5.10 (Changes to an Order of Approval or Permission to Operate), 5.11 (Notice of Startup of a Stationary Source or a Portable Source), 5.12 (Work Done Without an Approval), 5.13 (Order of Approval Construction Time Limits), 5.14 (Appeals), 5.15 (Obligation to Comply), 6.04 (Emission of Air Contaminant: Detriment to Person or Property), 6.05 (Particulate Matter & Preventing Particulate Matter from Becoming Airborne), 6.07 (Emission of Air Contaminant Concealment and Masking Restricted), 6.14 (Standards for Control of Particulate Matter on Paved Surfaces), and 6.15 (Standards for Control of Particulate Matter on Unpaved Roads). For more information, see 86 FR 24718 (May 10, 2021).

• Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 020 (Applicability), 030 (Definitions), 040 (General Standards for Maximum Emissions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 091 (Voluntary Limits on Emissions), 105 (Records, Monitoring and Reporting), 112 (Requirements for New Sources in Nonattainment Areas), 113 (Requirements for New Sources in Attainment or Unclassifiable Areas), 117 (Special Protection Requirements for Federal Class I Areas), 118 (Designation of Class I, II, and III Areas), 131 (Issuance of Emission Reduction Credits), 136 (Use of Emission Reduction Credits (ERC)), 151 (Retrofit Requirements for Visibility Protection), 175 (Public Information), 200 (Creditable Stack Height and Dispersion Techniques), 560 (General Order of Approval), 800 (Major Stationary Source and Major Modification in a Nonattainment Area), 810 (Major Stationary Source and Major Modification Definitions), 820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 830 (Permitting Requirements), 840 (Emission Offset Requirements), 850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 860 (Public Involvement Procedures). For more information, see 86 FR 24718 (May 10, 2021).

EPA-Approved State of Washington Source-Specific Requirements

• Tyson Fresh Meats, Inc, Order No. 13AQ–E526, state effective April 16, 2014. For more information, see 85 FR 25303 (May 1, 2020).

• Packaging Corporation of America (Wallula Mill), Permit No. 0003697, state effective April 1, 2018. For more information, see 85 FR 25303 (May 1, 2020).

• Simplot Feeders Limited Partnership, Fugitive Dust Control Plan, state effective March 1, 2018. For more information, see 85 FR 25303 (May 1, 2020).

• TransAlta Centralia BART—Second Revision, Order No. 6426, state effective July 29, 2020. For more information, see 86 FR 24502 (May 7, 2021).

B. Regulatory Materials Removed From Incorporation by Reference in the SIP

Table 1—Regulations Approved Statewide

• Washington Administrative Code, Chapter 173–422, Motor Vehicle Emission Inspection, sections 010 (Purpose), 020 (Definitions), 030 (Vehicle Emission Inspection Requirement), 031 (Vehicle Emission Inspection Schedules), 035 (Registration Requirements), 040 (Noncompliance Areas), 050 (Emission Contributing Areas), 060 (Gasoline Vehicle Emission Standards), 065 (Diesel Vehicle Exhaust Emission Standards), 070 (Gasoline Vehicle Exhaust Emission Testing Procedures), 075 (Diesel Vehicle Inspection Procedure), 090 (Exhaust Gas Analyzer Specifications), 095 (Exhaust Opacity Testing Equipment), 100 (Testing Equipment Maintenance and Calibration), 120 (Quality Assurance), 145 (Fraudulent Certificates of Compliance/Acceptance), 160 (Fleet and Diesel Owner Vehicle Testing Requirements), 170 (Exemptions), 175 (Fraudulent Exemptions), 190 (Emission Specialist Authorization), and 195 (Listing of Authorized Emission Specialists). For more information, see 86 FR 10026 (February 18, 2021) and 86 FR 13658 (March 10, 2021).

Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction

• Spokane Regional Clean Air Agency Regulation II, sections 4.01 (Particulate Emissions—Grain Loading Restrictions). For more information, see 86 FR 24718 (May 10, 2021).

• Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, section 100 (Registration) and any formerly approved Chapter 173–400 WAC provisions which are replaced by local agency corollaries. For more information, see 86 FR 24718 (May 10, 2021).

EPA-Approved State of Washington Source-Specific Requirements

• IBP (now known as Tyson Foods, Inc.) Order, Order No. 02AQER–5074, state effective December 6, 2002. For more information, see 85 FR 25303 (May 1, 2020).

• Boise White Paper LLC Permit, Permit No. 000369–7, state effective May 2, 2005. For more information, see 85 FR 25303 (May 1, 2020).

• Fugitive Dust Control Plan for Simplot Feeders Limited Partnership, state effective December 1, 2003. For more information, see 85 FR 25303 (May 1, 2020).

• TransAlta Centralia BART, Order No. 6426, state effective December 13, 2011. For more information, see 86 FR 24502 (May 7, 2021).

II. EPA Action

In this action, the EPA is updating the regulatory materials incorporated by reference into the Washington SIP at 40 CFR 52.2470(c) and (d) as of May 31, 2021. The EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Washington State provisions and source-specific requirements as set forth in the amendments to § 52.2470 as set forth below. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 approves 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.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the 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).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

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

The EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Washington SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Washington.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 20, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Amend § 52.2470 by revising paragraphs (b), (c), and (d) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after May 31, 2021, will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region 10 certifies that the rules and regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules and regulations which have been approved as part of the State implementation plan as of May 31, 2021.

(ii) EPA Region 10 certifies that the source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated source-specific requirements which have been approved in the notebook ''40 CFR 52.2470(d)—Source Specific Requirements'' as part of the State implementation plan as of May 31, 2021.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 10, Air and Radiation Division, 1200 Sixth Avenue Suite 155, Seattle, Washington 98101; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA approved regulations.*

TABLE 1—REGULATIONS APPROVED STATEWIDE

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–405—Kraft Pulping Mills				
173–405–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	
173–405–021	Definitions	5/24/19	2/26/20, 85 FR 10984.	
173–405–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except sections (1)(b), (1)(c), (3)(b), (3)(c), (4), (7), (8) & (9).
173–405–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578.	
173–405–061	More Restrictive Emission Standards	3/22/91	1/15/93, 58 FR 4578.	
173–405–072	Monitoring Requirements	5/24/19	2/26/20, 85 FR 10984	Except 173–405–072(2).
173–405–077	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578.	
173–405–078	Emission Inventory	3/22/91	1/15/93, 58 FR 4578.	
173–405–086	New Source Review (NSR)	5/24/19	2/26/20, 85 FR 10984	Except provisions related to WAC 173–400–114 and provisions excluded from our approval of WAC 173–400–110 through 173–400–113.
173–405–087	Prevention of Significant Deterioration (PSD)	5/24/19	2/26/20, 85 FR 10984	Except 173–400–720(4)(a)(i through iv), 173–400–720(4)(b)(iii)(C), and 173–400–750(2) second sentence.
173–405–091	Special Studies	3/22/91	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173–410—Sulfite Pulping Mills				
173–410–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	
173–410–021	Definitions	3/22/91	1/15/93, 58 FR 4578.	
173–410–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except the exception provision in (3) & section (5).
173–410–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578.	
173–410–062	Monitoring Requirements	5/24/19	2/26/20, 85 FR 10984.	
173–410–067	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578.	
173–410–071	Emission Inventory	3/22/91	1/15/93, 58 FR 4578.	
173–410–086	New Source Review (NSR)	5/24/19	2/26/20, 85 FR 10984	Except provisions related to WAC 173–400–114 and provisions excluded from our approval of WAC 173–400–110 through 173–400–113.
173–410–087	Prevention of Significant Deterioration (PSD)	5/24/19	2/26/20, 85 FR 10984	Except 173–400–720(4)(a)(i through iv), 173–400–720(4)(b)(iii)(C), and 173–400–750(2) second sentence.
173–410–100	Special Studies	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–415—Primary Aluminum Plants				
173–415–010	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	
173–415–015	Applicability	5/24/19	2/26/20, 85 FR 10984	Except 173–415–015(3).
173–415–020	Definitions	5/24/19	2/26/20, 85 FR 10984	Except 173–415–020(6).
173–415–030	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	Except sections (1) & (3)(b).
173–415–060	Monitoring and Reporting	5/24/19	2/26/20, 85 FR 10984	Except 173–415–060(1)(b).
173–415–070	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173–425—Open Burning				
173–425–010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173–425–020	Applicability	10/18/90	1/15/93, 58 FR 4578.	
173–425–030	Definitions	10/18/90	1/15/93, 58 FR 4578.	
173–425–036	Curtailment During Episodes or Impaired Air Quality.	10/18/90	1/15/93, 58 FR 4578.	
173–425–045	Prohibited Materials	1/3/89	1/15/93, 58 FR 4578.	
173–425–055	Exceptions	10/18/90	1/15/93, 58 FR 4578.	
173–425–065	Residential Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173–425–075	Commercial Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173–425–085	Agricultural Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173–425–095	No Burn Area Designation	10/18/90	1/15/93, 58 FR 4578.	
173–425–100	Delegation of Agricultural Open Burning Program.	10/18/90	1/15/93, 58 FR 4578.	
173–425–115	Land Clearing Projects	10/18/90	1/15/93, 58 FR 4578.	
173–425–120	Department of Natural Resources Smoke Management Plan.	10/18/90	1/15/93, 58 FR 4578.	
173–425–130	Notice of Violation	10/18/90	1/15/93, 58 FR 4578.	
173–425–140	Remedies	10/18/90	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173–430—Burning of Field and Forage and Turf Grasses Grown for Seed Open Burning				
173–430–010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173–430–020	Definitions	10/18/90	1/15/93, 58 FR 4578.	
173–430–030	Permits, Conditions, and Restrictions	10/18/90	1/15/93, 58 FR 4578.	
173–430–040	Mobile Field Burners	10/18/90	1/15/93, 58 FR 4578.	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–430–050	Other Approvals	10/18/90	1/15/93, 58 FR 4578.	
173–430–060	Study of Alternatives	10/18/90	1/15/93, 58 FR 4578.	
173–430–070	Fees	10/18/90	1/15/93, 58 FR 4578.	
173–430–080	Certification of Alternatives	10/18/90	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Device Standards				
173–433–010	Purpose	2/23/14	5/9/14, 79 FR 26628.	
173–433–020	Applicability	12/16/87	1/15/93, 58 FR 4578.	
173–433–030	Definitions	2/23/14	5/9/14, 79 FR 26628.	
173–433–100	Emission Performance Standards	2/23/14	5/9/14, 79 FR 26628.	
173–433–110	Opacity Standards	2/23/14	5/9/14, 79 FR 26628.	
173–433–120	Prohibited Fuel Types	2/23/14	5/9/14, 79 FR 26628.	
173–433–130	General Emission Standards	10/18/90	1/15/93, 58 FR 4578.	
173–433–140	Criteria for Impaired Air Quality Burn Bans	2/23/14	5/9/14, 79 FR 26628.	
173–433–150	Restrictions on Operation of Solid Fuel Burning Devices.	2/23/14	5/9/14, 79 FR 26628.	
173–433–155	Criteria for Prohibiting Solid Fuel Burning Devices That Are Not Certified.	2/23/14	5/9/14, 79 FR 26628.	
Washington Administrative Code, Chapter 173–434—Solid Waste Incinerator Facilities				
173–434–010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173–434–020	Applicability and Compliance	1/22/04	8/4/05, 70 FR 44855.	
173–434–030	Definitions	1/22/04	8/4/05, 70 FR 44855.	
173–434–090	Operation and Maintenance Plan	10/18/90	1/15/93, 58 FR 4578.	
173–434–110	Standards of Performance	1/22/04	8/4/05, 70 FR 44855	Except section (1)(a).
173–434–130	Emission Standards	1/22/04	8/4/05, 70 FR 44855	Except section (2).
173–434–160	Design and Operation	1/22/04	8/4/05, 70 FR 44855.	
173–434–170	Monitoring and Reporting	1/22/04	8/4/05, 70 FR 44855.	
173–434–190	Changes in Operation	1/22/04	8/4/05, 70 FR 44855.	
173–434–200	Emission Inventory	1/22/04	8/4/05, 70 FR 44855.	
173–434–210	Special Studies	10/18/90	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173–435—Emergency Episode Plan				
173–435–010	Purpose	1/3/89	1/15/93, 58 FR 4578.	
173–435–015	Significant Harm Levels	1/3/89	1/15/93, 58 FR 4578.	
173–435–020	Definitions	1/3/89	1/15/93, 58 FR 4578.	
173–435–030	Episode Stage Criteria	1/3/89	1/15/93, 58 FR 4578.	
173–435–040	Source Emission Reduction Plans	1/3/89	1/15/93, 58 FR 4578.	
173–435–050	Action Procedures	1/3/89	1/15/93, 58 FR 4578.	
173–435–060	Enforcement	1/3/89	1/15/93, 58 FR 4578.	
173–435–070	Sampling Sites, Equipment and Methods	1/3/89	1/15/93, 58 FR 4578	Except section (1).
Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards				
173–476–010	Purpose	12/22/13	3/4/14, 79 FR 12077.	
173–476–020	Applicability	07/01/16	10/6/16, 81 FR 69386.	
173–476–030	Definitions	12/22/13	3/4/14, 79 FR 12077.	
173–476–100	Ambient Air Quality Standard for PM–10	12/22/13	3/4/14, 79 FR 12077.	
173–476–110	Ambient Air Quality Standards for PM–2.5	12/22/13	3/4/14, 79 FR 12077.	
173–476–120	Ambient Air Quality Standard for Lead (Pb)	12/22/13	3/4/14, 79 FR 12077.	
173–476–130	Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).	12/22/13	3/4/14, 79 FR 12077.	
173–476–140	Ambient Air Quality Standards for Nitrogen Oxides (Nitrogen Dioxide).	12/22/13	3/4/14, 79 FR 12077.	
173–476–150	Ambient Air Quality Standard for Ozone	07/01/16	10/6/16, 81 FR 69386.	
173–476–160	Ambient Air Quality Standards for Carbon Monoxide.	12/22/13	3/4/14, 79 FR 12077.	
173–476–170	Monitor Siting Criteria	12/22/13	3/4/14, 79 FR 12077.	
173–476–180	Reference Conditions	12/22/13	3/4/14, 79 FR 12077.	
173–476–900	Table of Standards	07/01/16	10/6/16, 81 FR 69386.	
Washington Administrative Code, Chapter 173–490—Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
173–490–010	Policy and Purpose	3/22/91	7/12/93, 58 FR 37426.	
173–490–020	Definitions	3/22/91	7/12/93, 58 FR 37426.	
173–490–025	General Applicability	3/22/91	7/12/93, 58 FR 37426.	
173–490–030	Registration and Reporting	3/22/91	7/12/93, 58 FR 37426.	
173–490–040	Requirements	3/22/91	7/12/93, 58 FR 37426.	
173–490–080	Exceptions and Alternative Methods	3/22/91	7/12/93, 58 FR 37426.	
173–490–090	New Source Review (NSR)	3/22/91	7/12/93, 58 FR 37426.	
173–490–200	Petroleum Refinery Equipment Leaks	3/22/91	7/12/93, 58 FR 37426.	
173–490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	3/22/91	7/12/93, 58 FR 37426.	
173–490–202	Leaks from Gasoline Transport Tanks and Vapor Collection System.	3/22/91	7/12/93, 58 FR 37426.	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–490–203	Perchloroethylene Dry Cleaning Systems	3/22/91	7/12/93, 58 FR 37426.	
173–490–204	Graphic Arts System	3/22/91	7/12/93, 58 FR 37426.	
173–490–205	Surface Coating of Miscellaneous Metal Parts and Products.	3/22/91	7/12/93, 58 FR 37426.	
173–490–207	Surface Coating of Flatwood Paneling	3/22/91	7/12/93, 58 FR 37426.	
173–490–208	Aerospace Assembly and Component Coating Operations.	3/22/91	7/12/93, 58 FR 37426.	
Washington Administrative Code, Chapter 173–492—Motor Fuel Specifications for Oxygenated Gasoline				
173–492–010	Policy and Purpose	10/19/96	4/30/97, 62 FR 23363.	
173–492–020	Applicability	12/1/92	4/30/97, 62 FR 23363.	
173–492–030	Definitions	12/1/92	4/30/97, 62 FR 23363.	
173–492–040	Compliance Requirements	12/1/92	4/30/97, 62 FR 23363.	
173–492–050	Registration Requirements	10/19/96	4/30/97, 62 FR 23363.	
173–492–060	Labeling Requirements	12/1/92	4/30/97, 62 FR 23363.	
173–492–070	Control Areas and Control Periods	10/19/96	4/30/97, 62 FR 23363.	
173–492–080	Enforcement and Compliance	12/1/92	4/30/97, 62 FR 23363.	
173–492–090	Unplanned Conditions	12/1/92	4/30/97, 62 FR 23363.	
173–492–100	Severability	12/1/92	4/30/97, 62 FR 23363.	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726.	
173–400–020	Applicability	12/29/12	10/3/14, 79 FR 59653.	
173–400–025	Adoption of Federal Rules	9/16/18	2/24/20, 85 FR 10302.	
173–400–030	Definitions	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–030 (30) and (36).	Definitions	12/29/12	10/3/14, 79 FR 59653.	
173–400–036	Relocation of Portable Sources	12/29/12	4/29/15, 80 FR 23721.	
173–400–040	General Standards for Maximum Emissions	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5).
173–400–040(2)	General Standards for Maximum Emissions	07/01/16	10/6/16, 81 FR 69385	Except: 173–400–040(2)(c); 173–400–040(2)(d).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units ..	11/25/18	2/24/20, 85 FR 10302.	
173–400–070	Emission Standards for Certain Source Categories.	07/01/16	10/6/16, 81 FR 69386	Except: 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	10/3/14, 79 FR 59653.	
173–400–091	Voluntary Limits on Emissions	4/1/11	10/3/14, 79 FR 59653	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995.
173–400–105	Records, Monitoring, and Reporting	11/25/18	2/24/20, 85 FR 10302.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16, 81 FR 66825	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; The part of 400–110 (4)(e)(iii) that says, • ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(f)(i) that says, • ''that are not toxic air pollutants listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xviii) that says, • '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(h)(xxxiii) that says, • ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted''; The part of 400–110(4)(h)(xxxiv) that says, • '', or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xxxv) that says, • ''or ≤1% (by weight) toxic air pollutants''; The part of 400–110(4)(h)(xxxvi) that says, • ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; 400–110(4)(h)(xl), second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	07/01/16	10/6/16, 81 FR 69386	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16, 81 FR 66825.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection	07/01/16	10/6/16, 81 FR 69386.	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/29/15, 80 FR 23721.	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	10/3/14, 79 FR 59653.	
173–400–131	Issuance of Emission Reduction Credits	4/1/11	11/7/14, 79 FR 66291.	
173–400–136	Use of Emission Reduction Credits (ERC)	12/29/12	11/7/14, 79 FR 66291.	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	10/3/14, 79 FR 59653.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	2/24/20, 85 FR 10302	Except: The part of 173–400–171(3)(b) that says, • ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(3)(o); 173–400–171(12).
173–400–175	Public Information	2/10/05	10/3/14, 79 FR 59653.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	10/3/14, 79 FR 59653.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	4/29/15, 80 FR 23721	Except: The part of 173–400–560(1)(f) that says, ''173–460 WAC''.
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	4/29/15, 80 FR 23721.	
173–400–710	Definitions	07/01/16	10/6/16, 81 FR 69386.	
173–400–720	Prevention of Significant Deterioration (PSD)	07/01/16	10/6/16, 81 FR 69386	Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C).
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	07/01/16	10/6/16, 81 FR 69386.	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–740	PSD Permitting Public Involvement Requirements.	9/16/18	2/24/20, 85 FR 10302.	
173–400–750	Revisions to PSD Permits	12/29/12	4/29/15, 80 FR 23721	Except: 173–400–750(2) second sentence.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	11/7/14, 79 FR 66291.	
173–400–810	Major Stationary Source and Major Modification Definitions.	07/01/16	10/6/16, 81 FR 69386.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/7/14, 79 FR 66291.	
173–400–830	Permitting Requirements	07/01/16	10/6/16, 81 FR 69386.	
173–400–840	Emission Offset Requirements	07/01/16	10/6/16, 81 FR 69386.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	07/01/16	10/6/16, 81 FR 69386.	
173–400–860	Public Involvement Procedures	4/1/11	11/7/14, 79 FR 66291.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 463–78—General and Operating Permit Regulations for Air Pollution Sources				
78–005	Adoption by Reference	8/26/19	1/24/20, 85 FR 4235	Subsection (1) only. See this table 3 for the updated Chapter 173–400 WAC provisions adopted by reference and submitted to the EPA for approval.
78–010	Purpose	8/27/15	5/30/17, 82 FR 24533.	
78–020	Applicability	11/11/04	5/30/17, 82 FR 24533.	
78–030	Additional Definitions	8/27/15	5/30/17, 82 FR 24533	Except references to 173–401–200 and 173–406–101.
78–095	Permit Issuance	8/27/15	5/30/17, 82 FR 24533.	
78–120	Monitoring and Special Report	11/11/04	5/30/17, 82 FR 24533.	
Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in WAC 463–78–005				
173–400–025	Adoption of Federal Rules	9/16/18	1/24/20, 85 FR 4235.	
173–400–030	Definitions	9/16/18	1/24/20, 85 FR 4235	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–030(30) & (36).	Definitions	12/29/12	5/30/17, 82 FR 24533.	
173–400–036	Relocation of Portable Sources	12/29/12	5/30/17, 82 FR 24533.	
173–400–040	General Standards for Maximum Emissions	9/16/18	1/24/20, 85 FR 4235	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5).
173–400–040(2)	General Standards for Maximum Emissions	4/1/11	5/30/17, 82 FR 24533	Except: 173–400–040(2)(c); 173–400–040(2)(d).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	1/24/20, 85 FR 4235	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units ..	11/25/18	1/24/20, 85 FR 4235.	
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	5/30/17, 82 FR 24533	Except: 173–400–070(1); 173–400–070(2); 173–400–070(3); 173–400–070(4); 173–400–070(6); 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	5/30/17, 82 FR 24533.	
173–400–091	Voluntary Limits on Emissions	4/1/11	5/30/17, 82 FR 24533.	
173–400–105	Records, Monitoring, and Reporting	11/25/18	1/24/20, 85 FR 4235.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	5/30/17, 82 FR 24533	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; The part of 400–110 (4)(e)(iii) that says, ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(f)(i) that says, ''that are not toxic air pollutants listed in chapter 173–460 WAC''; The part of 400–110 (4)(h)(xviii) that says, '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; The part of 400–110 (4)(h)(xxxiii) that says, ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted''; The part of 400–110(4)(h)(xxxiv) that says, '', or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xxxv) that says, ''or ≤1% (by weight) toxic air pollutants''; The part of 400–110(4)(h)(xxxvi) that says, ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; 400–110(4)(h)(xl), second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	07/01/16	1/24/20, 85 FR 4235	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, 82 FR 24533.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, 82 FR 24533	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection	07/01/16	1/24/20, 85 FR 4235.	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/30/17, 82 FR 24533.	
173–400–131	Issuance of Emission Reduction Credits	4/1/11	5/30/17, 82 FR 24533.	
173–400–136	Use of Emission Reduction Credits (ERC)	4/1/11	5/30/17, 82 FR 24533.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	1/24/20, 85 FR 4235	Except: The part of 173–400–171(3)(b) that says, • ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(3)(o); 173–400–171(12).
173–400–175	Public Information	2/10/05	5/30/17, 82 FR 24533.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/30/17, 82 FR 24533.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	5/30/17, 82 FR 24533.	
173–400–710	Definitions	07/01/16	1/24/20, 85 FR 4235.	
173–400–720	Prevention of Significant Deterioration (PSD)	07/01/16	1/24/20, 85 FR 4235	Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C).
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	07/01/16	1/24/20, 85 FR 4235.	
173–400–740	PSD Permitting Public Involvement Requirements.	9/16/18	1/24/20, 85 FR 4235.	
173–400–750	Revisions to PSD Permits	12/29/12	5/30/17, 82 FR 24533	Except: 173–400–750(2) second sentence.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	5/30/17, 82 FR 24533.	
173–400–810	Major Stationary Source and Major Modification Definitions.	07/01/16	1/24/20, 85 FR 4235.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/30/17, 82 FR 24533.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–830	Permitting Requirements	07/01/16	1/24/20, 85 FR 4235.	
173–400–840	Emission Offset Requirements	07/01/16	1/24/20, 85 FR 4235.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	07/01/16	1/24/20, 85 FR 4235.	
173–400–860	Public Involvement Procedures	4/1/11	5/30/17, 82 FR 24533.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, ;173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Benton Clean Air Agency (BCAA) Regulations Regulation 1				
1.01	Name of Agency	12/11/14	11/17/15, 80 FR 71695.	
1.02	Policy and Purpose	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–010.
1.03	Applicability	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–020.
4.01(A)	Definitions—Fugitive Dust	12/11/14	2/24/20, 85 FR 10302	Replaces WAC 173–400–030(40).
4.01(B)	Definitions—Fugitive Emissions	12/11/14	2/24/20, 85 FR 10302	Replaces WAC 173–400–030(41).
4.02(B)	Particulate Matter Emissions—Fugitive Emissions.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(4).
4.02(C)(1)	Particulate Matter Emissions—Fugitive Dust	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(9)(a).
4.02(C)(3)	Particulate Matter Emissions—Fugitive Dust	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–040(9)(b).
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–025	Adoption of Federal Rules	9/16/18	2/24/20, 85 FR 10302.	
173–400–030	Definitions	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(40); 173–400–030(41); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–030 (30) and (36).	Definitions	12/29/12	10/3/14, 79 FR 59653.	
173–400–036	Relocation of Portable Sources	12/29/12	11/17/15, 80 FR 71695.	
173–400–040	General Standards for Maximum Emissions	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–040(2); 173–400–040(3); 173–400–040(4); 173–400–040(5); 173–400–040(9).
173–400–040(2)	General Standards for Maximum Emissions	07/01/16	10/6/16, 81 FR 69385	Except: 173–400–040(2)(c); 173–400–040(2)(d).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	2/24/20, 85 FR 10302	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units ..	11/25/18	2/24/20, 85 FR 10302.	
173–400–070	Emission Standards for Certain Source Categories.	07/01/16	10/6/16, 81 FR 69386	Except: 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	11/17/15, 80 FR 71695.	
173–400–091	Voluntary Limits on Emissions	4/1/11	11/17/15, 80 FR 71695.	
173–400–105	Records, Monitoring and Reporting	11/25/18	2/24/20, 85 FR 10302.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, ;173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16, 81 FR 66825	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); —The part of WAC 173–400–110(4)(b)(vi) that says, ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; —The part of 400–110(4)(e)(iii) that says, ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted''; The part of 400–110(4)(f)(i) that says, ''that are not toxic air pollutants listed in chapter 173–460 WAC''; —The part of 400–110(4)(h)(xviii) that says, '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; —The part of 400–110(4)(h)(xxxiii) that says, ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted''; —The part of 400–110(4)(h)(xxxiv) that says, ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; The part of 400–110(4)(h)(xxxv) that says, ''or ≤1% (by weight) toxic air pollutants''; —The part of 400–110(4)(h)(xxxvi) that says, ''or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC''; 400–110(4)(h)(xl), second sentence; —The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	07/01/16	10/6/16, 81 FR 69386	Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16, 81 FR 66825.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	11/17/15, 80 FR 71695	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	11/17/15, 80 FR 71695	Except facilities subject to the applicability provisions of WAC 173–400–700.
173–400–118	Designation of Class I, II, and III Areas	12/29/12	11/17/15, 80 FR 71695.	
173–400–131	Issuance of Emission Reduction Credits	4/1/11	11/17/15, 80 FR 71695.	
173–400–136	Use of Emission Reduction Credits (ERC)	12/29/12	11/17/15, 80 FR 71695.	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	11/17/15, 80 FR 71695.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	2/24/20, 85 FR 10302	Except: — The part of 173–400–171(3)(b) that says, ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(3)(o); 173–400–171(12).
173–400–175	Public Information	2/10/05	11/17/15, 80 FR 71695.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height & Dispersion Techniques.	2/10/05	11/17/15, 80 FR 71695.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	11/17/15, 80 FR 71695	Except: — The part of 173–400–560(1)(f) that says, ''173–460 WAC''.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	11/17/15, 80 FR 71695.	
173–400–810	Major Stationary Source and Major Modification Definitions.	07/01/16	10/6/16, 81 FR 69386.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/17/15, 80 FR 71695.	
173–400–830	Permitting Requirements	07/01/16	10/6/16, 81 FR 69386.	
173–400–840	Emission Offset Requirements	07/01/16	10/6/16, 81 FR 69386.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	07/01/16	10/6/16, 81 FR 69386.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, ;173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–860	Public Involvement Procedures	4/1/11	11/17/15, 80 FR 71695.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
	Northwest Clean Air Agency Regulations			
	General Provisions			
100	Name of Agency	8/21/05	6/15/20, 85 FR 36156.	
101	Short Title	8/21/05	6/15/20, 85 FR 36156.	
102	Policy	8/21/05	6/15/20, 85 FR 36156	Except provisions outside the scope of CAA section 110. Replaces WAC 173–400–010.
121	Orders	9/8/93	2/22/95, 60 FR 9778.	
150	Pollutant Disclosure—Reporting by Air Containment Sources.	9/8/93	2/22/95, 60 FR 9778.	
180	Sampling and Analytical Methods/References	9/8/93	2/22/95, 60 FR 9778.	
	Definitions			
200	Definitions	5/12/19	6/15/20, 85 FR 36156	Except the definitions Toxic Air Pollutant, Odor, and Odor Source. Generally replaces WAC 173–400–030. However, for definitions not included in section 200, the WAC 173–400–030 definitions in this table 5 shall apply.
	Control Procedures			
300	New Source Review	5/12/19	6/15/20, 85 FR 36156	Except subsections 300.8(C), 300.25, or any provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–036, 173–400–110, 173–400–111, 173–400–113, and 173–400–560, except certain subsections of WAC 173–400–111 and 173–400–113 listed in this table 5.
305	Public Involvement	5/12/19	6/15/20, 85 FR 36156	Except provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–171 and WAC 173–400–175, except subsection 173–400–171(6)(b).
320	Registration Program	5/12/19	6/15/20, 85 FR 36156	Except subsection 320.3 and provisions related to the regulation of Toxic Air Pollutants or odor.
321	Exemptions from Registration	5/12/19	6/15/20, 85 FR 36156	Except subsection 321.3.
324	Fees	11/13/94	10/24/95, 60 FR 54439	Except section 324.121.
325	Transfer	9/8/93	2/22/95, 60 FR 9778.	
340	Report of Breakdown and Upset	11/13/94	10/24/95, 60 FR 54439.	
341	Schedule Report of Shutdown or Start-Up	9/8/93	2/22/95, 60 FR 9778.	
342	Operation and Maintenance	9/8/93	2/22/95, 60 FR 9778.	
360	Testing and Sampling	9/8/93	2/22/95, 60 FR 9778.	
365	Monitoring	9/8/93	2/22/95, 60 FR 9778.	
366	Instrument Calibration	9/8/93	2/22/95, 60 FR 9778.	
	Standards			
450	Emission Standards—Forward	9/8/93	2/22/95, 60 FR 9778.	
451	Emission of Air Contaminant—Visual Standards	11/13/94	10/24/95, 60 FR 54439.	
452	Motor Vehicle Visual Standards	9/8/93	2/22/95, 60 FR 9778	Except section 452.5.
455	Emission of Particulate Matter	9/8/93	2/22/95, 60 FR 9778.	
458	Incinerators—Wood Waste Burners	9/8/93	2/22/95, 60 FR 9778.	
460	Weight/Heat Rate Standard—Emission of Sulfur Compounds.	9/8/93	2/22/95, 60 FR 9778.	
462	Emission of Sulfur Compounds	11/13/94	10/24/95, 60 FR 54439.	
466	Portland Cement Plants	9/8/93	2/22/95, 60 FR 9778.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Regulated Activities and Prohibitions				
510	Incinerator Burning	9/8/93	2/22/95, 60 FR 9778.	
520	Sulfur Compounds in Fuel	9/8/93	2/22/95, 60 FR 9778.	
550	Particulate Matter from Becoming Airborne	9/8/93	2/22/95, 60 FR 9778.	
560	Storage of Organic Liquids	9/8/93	2/22/95, 60 FR 9778.	
580	Volatile Organic Compound Control (VOC)	11/13/94	10/24/95, 60 FR 54439.	
Washington Department of Ecology Regulations **Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources**				
173–400–020	Applicability	12/29/12	6/15/20, 85 FR 36156.	
173–400–025	Adoption of Federal Rules	9/16/18	6/15/20, 85 FR 36156	Only as it applies to cross references in the WAC.
173–400–030	Definitions	9/16/18	6/15/20, 85 FR 36156	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104); or any definition included in NWCAA section 200.
173–400–040	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	6/15/20, 85 FR 36156	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units	11/25/18	6/15/20, 85 FR 36156.	
173–400–070	Emission Standards for Certain Source Categories	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions	4/1/11	6/15/20, 85 FR 36156	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995.
173–400–105	Records, Monitoring and Reporting	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	6/15/20, 85 FR 36156	Only subsections (1)(c), (1)(d), (5)(b), and (7)(b), otherwise NWCAA section 300 applies.
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, 85 FR 36156	The cross reference to WAC 173–400–113(3) is interpreted to be NWCAA section 300.9(B)(3).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, 85 FR 36156	Only subsection (4), otherwise NWCAA section 300 applies.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	6/15/20, 85 FR 36156.	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	6/15/20, 85 FR 36156.	
173–400–131	Issuance of Emission Reduction Credits	4/1/11	6/15/20, 85 FR 36156.	
173–400–136	Use of Emission Reduction Credits (ERC)	4/1/11	6/15/20, 85 FR 36156.	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	6/15/20, 85 FR 36156.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment	9/16/18	6/15/20, 85 FR 36156	Only subsection (6)(b), otherwise NWCAA section 305 applies.
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques	2/10/05	6/15/20, 85 FR 36156.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	6/15/20, 85 FR 36156	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (see the **Federal Register** of August 24, 2016); nor does NWCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	6/15/20, 85 FR 36156.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	6/15/20, 85 FR 36156.	
173–400–830	Permitting Requirements	7/1/16	6/15/20, 85 FR 36156.	
173–400–840	Emission Offset Requirements	7/1/16	6/15/20, 85 FR 36156.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL)	7/1/16	6/15/20, 85 FR 36156.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–860	Public Involvement Procedures	4/1/11	6/15/20, 85 FR 36156.	

TABLE 6—ADDITIONAL REGULATIONS APPROVED FOR THE OLYMPIC REGION CLEAN AIR AGENCY (ORCAA) JURISDICTION

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Olympic Region Clean Air Agency Regulations				
Rule 6.2 Outdoor Burning				
6.2.3	No Residential or Land Clearing Burning	2/4/12	10/3/13, 78 FR 61188	Only as it applies to the cities of Olympia, Lacey, and Tumwater.
6.2.6	Curtailment	3/18/11	10/3/13, 78 FR 61188.	
6.2.7	Recreational Burning	3/18/11	10/3/13, 78 FR 61188.	
Rule 8.1 Wood Heating				
8.1.1	Definitions	5/22/10	10/3/13, 78 FR 61188.	
8.1.2 (b) and (c)	General Emission Standards	5/22/10	10/3/13, 78 FR 61188.	
8.1.3	Prohibited Fuel Types	5/22/10	10/3/13, 78 FR 61188.	
8.1.4	Curtailment	5/22/10	10/3/13, 78 FR 61188.	
8.1.5	Exceptions	5/22/10	10/3/13, 78 FR 61188.	
8.1.7	Sale and Installation of Uncertified Woodstoves	5/22/10	10/3/13, 78 FR 61188.	
8.1.8	Disposal of Uncertified Woodstoves	5/22/10	10/3/13, 78 FR 61188.	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726.	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–040	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units ..	3/22/91	6/2/95, 60 FR 28726.	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995.
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726.	
173–400–105	Records, Monitoring and Reporting	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726.	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection	3/22/91	6/2/95, 60 FR 28726.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
	Puget Sound Clean Air Agency Regulations			
	Regulation I—Article 1: Policy, Short Title, and Definitions			
1.01	Policy	11/01/99	4/22/20, 85 FR 22357	Replaces WAC 173–400–010.
1.03	Name of Agency	11/01/99	8/31/04, 69 FR 53007.	
1.05	Short Title	11/01/99	8/31/04, 69 FR 53007.	
1.07	Definitions	12/01/18	4/22/20, 85 FR 22357	Except the definition ''toxic air pollutant (TAP) or toxic air contaminant.''
	Regulation I—Article 3: General Provisions			
3.03(f)	General Regulatory Orders	02/01/12	4/22/20, 85 FR 22357.	
3.04	Reasonably Available Control Technology	07/01/12	4/22/20, 85 FR 22357	Except 3.04(e). Replaces WAC 173–400–040(1)(c).
3.06	Credible Evidence	11/14/98	8/31/04, 69 FR 53007.	
3.25	Federal Regulation Reference Date	11/01/19	4/22/20, 85 FR 22357	Replaces WAC 173–400–025.
	Regulation I—Article 5: Registration			
5.03	Applicability of Registration Program	11/01/16	4/22/20, 85 FR 22357	Except 5.03(a)(8)(Q) and 5.03(b)(5).
5.05	Registration Requirements	02/01/17	4/22/20, 85 FR 22357	Except 5.05(b)(1) and (2).
	Regulation I—Article 6: New Source Review			
6.01	Components of New Source Review Program	8/01/18	4/22/20, 85 FR 22357	Except the parenthetical in 6.01(b) which states ''as delegated by agreement with the US Environmental Protection Agency, Region 10.'' See subheading in this table 7 for revised Chapter 173–400 WAC provisions incorporated by reference.
6.03	Notice of Construction	11/01/15	4/22/20, 85 FR 22357	Except 6.03(b)(10). Section 6.03 replaces WAC 173–400–110, except WAC 173–400–110(1)(c)(i) and (1)(d) which are incorporated by reference.
6.09	Notice of Completion	05/01/04	4/22/20, 85 FR 22357.	
6.10	Work Done without an Approval	09/01/01	4/22/20, 85 FR 22357.	
	Regulation I—Article 7: Operating Permits			
7.09	General Reporting Requirements for Operating Permits.	02/01/17	4/22/20, 85 FR 22357	Excluding toxic air pollutants.
	Regulation I—Article 8: Outdoor Burning			
8.04	General Conditions for Outdoor Burning	01/01/01	8/31/04, 69 FR 53007.	
8.05	Agricultural Burning	01/01/01	8/31/04, 69 FR 53007.	
8.06	Outdoor Burning Ozone Contingency Measure	01/23/03	8/05/04, 69 FR 47364.	
8.09	Description of King County No-Burn Area	01/01/01	8/31/04, 69 FR 53007.	
8.10	Description of Pierce County No-Burn Area	01/01/01	8/31/04, 69 FR 53007.	
8.11	Description of Snohomish County No-Burn Area	01/01/01	8/31/04, 69 FR 53007.	
8.12	Description of Kitsap County No-Burn Area	11/30/02	8/31/04, 69 FR 53007.	
	Regulation I—Article 9: Emission Standards			
9.03	Emission of Air Contaminant: Visual Standard	05/01/04	4/22/20, 85 FR 22357	Except 9.03(e). Replaces WAC 173–400–040(2).
9.04	Opacity Standards for Equipment with Continuous Opacity Monitoring Systems.	05/01/04	4/22/20, 85 FR 22357	Except 9.04(d)(2) and 9.04(f).
9.05	Refuse Burning	1/13/94	06/29/95, 60 FR 33734.	
9.07	Sulfur Dioxide Emission Standard	05/19/94	4/22/20, 85 FR 22357	Replaces WAC 173–400–040(7).
9.08	Fuel Oil Standards	05/01/04	4/22/20, 85 FR 22357	Approved only as it applies to the regulation of criteria pollutants.
9.09	Particulate Matter Emission Standards	06/01/98	4/22/20, 85 FR 22357	Replaces WAC 173–400–050(1) & (3) and 173–400–060.
9.11(a)	Emission of Air Contaminant: Detriment to Person or Property.	04/17/99	4/22/20, 85 FR 22357	Replaces WAC 173–400–040(6).
9.13	Emission of Air Contaminant: Concealment and Masking Restricted.	06/09/88	4/22/20, 85 FR 22357	Replaces WAC 173–400–040(8).
9.15	Fugitive Dust Control Measures	04/17/99	4/22/20, 85 FR 22357	Replaces WAC 173–400–040(9)(a).
9.16	Spray-Coating Operations	12/02/10	4/22/20, 85 FR 22357.	
9.18	Crushing Operations	03/02/12	4/22/20, 85 FR 22357.	
9.20	Maintenance of Equipment	6/9/88	08/29/94, 59 FR 44324.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems				
12.01	Applicability	06/01/98	8/31/04, 69 FR 53007.	
12.03	Continuous Emission Monitoring Systems	11/01/15	4/22/20, 85 FR 22357	Replaces WAC 173–400–105(7).
Regulation I—Article 13: Solid Fuel Burning Device Standards				
13.01	Policy and Purpose	12/01/12	5/29/13, 78 FR 32131.	
13.02	Definitions	12/01/12	5/29/13, 78 FR 32131.	
13.03	Opacity Standards	12/01/12	5/29/13, 78 FR 32131.	
13.04	Prohibited Fuel Types	12/01/12	5/29/13, 78 FR 32131.	
13.05	Curtailment	12/01/12	5/29/13, 78 FR 32131.	
13.06	Emission Performance Standards	12/01/12	5/29/13, 78 FR 32131.	
13.07	Prohibition on Wood Stoves that are not Certified Wood Stoves.	12/01/12	5/29/13, 78 FR 32131.	
Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions				
1.01	Purpose	11/01/99	08/31/04, 69 FR 53007.	
1.02	Policy	11/01/99	08/31/04, 69 FR 53007.	
1.03	Short Title	11/01/99	08/31/04, 69 FR 53007.	
1.04	General Definitions	12/11/80	02/28/83, 48 FR 8273.	
1.05	Special Definitions	9/1/03	09/17/13, 78 FR 57073.	
Regulation II—Article 2: Gasoline Marketing Emission Standards				
2.01	Definitions	08/13/99	08/31/04, 69 FR 53007.	
2.03	Petroleum Refineries	07/15/91	08/29/94, 59 FR 44324.	
2.05	Gasoline Loading Terminals	01/13/94	06/29/95, 60 FR 33734.	
2.06	Bulk Gasoline Plants	07/15/91	08/29/94, 59 FR 44324.	
2.07	Gasoline Stations	01/10/00	08/31/04, 69 FR 53007.	
2.08	Gasoline Transport Tanks	08/13/99	08/31/04, 69 FR 53007.	
2.09	Oxygenated Gasoline Carbon Monoxide Contingency Measure and Fee Schedule.	01/23/03	08/05/04, 69 FR 47365.	
2.10	Gasoline Station Ozone Contingency Measure	01/23/03	08/05/04, 69 FR 47365.	
Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards				
3.01	Cutback Asphalt Paving	7/15/91	08/29/94, 59 FR 44324.	
3.02	Volatile Organic Compound Storage Tanks	8/13/99	08/31/04, 69 FR 53007.	
3.03	Can and Paper Coating Operations	3/17/94	06/29/95, 60 FR 33734.	
3.04	Motor Vehicle and Mobile Equipment Coating Operations.	9/1/03	09/17/13, 78 FR 57073.	
3.05	Graphic Arts Systems	1/13/94	06/29/95, 60 FR 33734.	
3.08	Polyester, Vinylester, Gelcoat, and Resin Operations.	1/13/94	06/29/95, 60 FR 33734.	
3.09	Aerospace Component Coating Operations	1/13/94	6/29/95, 60 FR 33734.	
Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in Regulation I, Section 6.01				
173–400–030	Definitions	12/29/12	4/22/20, 85 FR 22357	Except: 173–400–030(91).
173–400–081	Startup and Shutdown	04/01/11	4/22/20, 85 FR 22357.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	4/22/20, 85 FR 22357	173–400–110(1)(c)(i) and 173–400–110(1)(d) only.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	07/01/16	4/22/20, 85 FR 22357	Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas.	12/29/12	4/22/20, 85 FR 22357.	
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	12/29/12	4/22/20, 85 FR 22357	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/22/20, 85 FR 22357.	
173–400–171	Public Notice and Opportunity for Public Comment.	07/01/16	4/22/20, 85 FR 22357	Except: —The part of 173–400–171(3)(b) that says, ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(12).
173–400–200	Creditable Stack Height and Dispersion Techniques.	02/10/05	4/22/20, 85 FR 22357.	
173–400–560	General Order of Approval	12/29/12	4/22/20, 85 FR 22357	Except: —The part of 173–400–560(1)(f) that says, ''173–460 WAC''.

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/01/11	4/22/20, 85 FR 22357	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (see the **Federal Register** of August 24, 2016); nor does PSCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	07/01/16	4/22/20, 85 FR 22357.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	4/22/20, 85 FR 22357.	
173–400–830	Permitting Requirements	07/01/16	4/22/20, 85 FR 22357.	
173–400–840	Emission Offset Requirements	07/01/16	4/22/20, 85 FR 22357.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	07/01/16	4/22/20, 85 FR 22357.	
173–400–860	Public Involvement Procedures	4/01/11	4/22/20, 85 FR 22357.	
	Washington Department of Ecology Regulations			
	Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources			
173–400–020	Applicability	12/29/12	4/22/20, 85 FR 22357.	
173–400–040	General Standards for Maximum Emissions	09/16/18	4/22/20, 85 FR 22357	173–400–040(1)(a) & (b), 173–400–040(4); and 173–400–040(9)(b) only.
173–400–070	Emission Standards for Certain Source Categories.	03/22/91	06/02/95, 60 FR 28726	Except (7).
173–400–091	Voluntary Limits on Emissions	4/1/11	4/22/20, 85 FR 22357	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995).
173–400–105	Records, Monitoring and Reporting	11/25/18	4/22/20, 85 FR 22357	Except: 173–400–105(7).
173–400–107	Excess Emissions	09/20/93	06/02/95, 60 FR 28726.	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	4/22/20, 85 FR 22357.	
173–400–131	Issuance of Emission Reduction Credits	04/1/11	4/22/20, 85 FR 22357.	
173–400–136	Use of Emission Reduction Credits (ERC)	12/29/12	4/22/20, 85 FR 22357.	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	4/22/20, 85 FR 22357.	
173–400–161	Compliance Schedules	3/22/91	06/02/95, 60 FR 28726.	
173–400–175	Public Information	2/10/05	4/22/20, 85 FR 22357.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	06/02/95, 60 FR 28726.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	06/02/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	06/02/95, 60 FR 28726.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
	Southwest Clean Air Agency Regulations			
	SWCAA 400—General Regulations for Air Pollution Sources			
400–010	Policy and Purpose	03/18/01	04/10/17, 82 FR 17136.	
400–020	Applicability	10/09/16	04/10/17, 82 FR 17136.	
400–030	Definitions	10/09/16	04/10/17, 82 FR 17136	Except: 400–030(21) and (129).
400–036	Portable Sources from Other Washington Jurisdictions.	10/09/16	04/10/17, 82 FR 17136.	
400–040(1)(a)	General Standards for Maximum Emissions	9/21/95	2/26/97, 62 FR 8624.	
400–040	General Standards for Maximum Emissions	10/09/16	04/10/17, 82 FR 17136	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050	Emission Standards for Combustion and Incineration Units.	10/09/16	04/10/17, 82 FR 17136	Except: 400–050(3); 400–050(5); and 400–050(6).
400–060	Emission Standards for General Process Units ..	10/09/16	04/10/17, 82 FR 17136.	
400–070(2)(a)	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400–070	General Requirements for Certain Source Categories.	10/09/16	04/10/17, 82 FR 17136	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6);400–070(7); 400–070(8)(c); 400–070(9); 400–070(10);400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072	Small Unit Notification for Selected Source Categories.	10/09/16	04/10/17, 82 FR 17136	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); and all reporting requirements related to toxic air pollutants.
400–074	Gasoline Transport Tanker Registration	11/15/09	04/10/17, 82 FR 17136	Except: 400–074(2).
400–081	Startup and Shutdown	10/09/16	04/10/17, 82 FR 17136.	
400–091	Voluntary Limits on Emissions	10/09/16	04/10/17, 82 FR 17136.	
400–105	Records, Monitoring and Reporting	10/09/16	04/10/17, 82 FR 17136	Except: Reporting requirements related to toxic air pollutants.
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	10/09/16	04/10/17, 82 FR 17136	Except: 400–106(1)(d) through (g); and 400–106(2).
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624.	
400–109	Air Discharge Permit Applications	10/09/16	04/10/17, 82 FR 17136	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	10/09/16	04/10/17, 82 FR 17136	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	10/09/16	04/10/17, 82 FR 17136	Except: 400–111(7).
400–112	Requirements for New Sources in Nonattainment Areas.	10/09/16	04/10/17, 82 FR 17136	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	10/09/16	04/10/17, 82 FR 17136	Except: 400–113(5).
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	11/09/03	04/10/17, 82 FR 17136.	
400–116	Maintenance of Equipment	11/09/03	04/10/17, 82 FR 17136.	
400–130	Use of Emission Reduction Credits	10/09/16	04/10/17, 82 FR 17136.	
400–131	Deposit of Emission Reduction Credits Into Bank	10/09/16	04/10/17, 82 FR 17136.	
400–136	Maintenance of Emission Reduction Credits in Bank.	10/09/16	04/10/17, 82 FR 17136.	
400–151	Retrofit Requirements for Visibility Protection	11/09/03	04/10/17, 82 FR 17136.	
400–161	Compliance Schedules	03/18/01	04/10/17, 82 FR 17136.	
400–171	Public Involvement	10/09/16	04/10/17, 82 FR 17136	Except: 400–171(2)(a)(xii).
400–190	Requirements for Nonattainment Areas	10/09/16	04/10/17, 82 FR 17136.	
400–200	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/09/16	04/10/17, 82 FR 17136.	
400–205	Adjustment for Atmospheric Conditions	03/18/01	04/10/17, 82 FR 17136.	
400–210	Emission Requirements of Prior Jurisdictions	03/18/01	04/10/17, 82 FR 17136.	
400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	10/09/16	04/10/17, 82 FR 17136.	
400–810	Major Stationary Source and Major Modification Definitions.	10/09/16	04/10/17, 82 FR 17136.	
400–820	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/09/16	04/10/17, 82 FR 17136.	
400–830	Permitting Requirements	10/09/16	04/10/17, 82 FR 17136.	
400–840	Emission Offset Requirements	10/09/16	04/10/17, 82 FR 17136.	
400–850	Actual Emissions—Plantwide Applicability Limitation (PAL).	10/09/16	04/10/17, 82 FR 17136.	
400–860	Public Involvement Procedures	10/09/16	04/10/17, 82 FR 17136.	
Appendix A	SWCAA Method 9 Visual Opacity Determination Method.	10/09/16	04/10/17, 82 FR 17136.	
Appendix B	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/09/16	04/10/17, 82 FR 17136	
Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
490–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204.	
490–020	Definitions	11/21/96	5/19/97, 62 FR 27204.	
490–025	General Applicability	11/21/96	5/19/97, 62 FR 27204.	
490–030	Registration and Reporting	11/21/96	5/19/97, 62 FR 27204.	
490–040	Requirements	11/21/96	5/19/97, 62 FR 27204.	
490–080	Exceptions & Alternative Methods	11/21/96	5/19/97, 62 FR 27204.	
490–090	New Source Review	11/21/96	5/19/97, 62 FR 27204.	
490–200	Petroleum Refinery Equipment Leaks	11/21/96	5/19/97, 62 FR 27204.	
490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204.	
490–202	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
490–203	Perchloroethylene Dry Cleaning Systems	11/21/96	5/19/97, 62 FR 27204.	
490–204	Graphic Arts Systems	11/21/96	5/19/97, 62 FR 27204.	
490–205	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204.	
490–207	Surface Coating of Flatwood Paneling	11/21/96	5/19/97, 62 FR 27204.	
490–208	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204.	
	Emissions Standards and Controls for Sources Emitting Gasoline Vapors			
491–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204.	
491–015	Applicability	11/21/96	5/19/97, 62 FR 27204.	
491–020	Definitions	11/21/96	5/19/97, 62 FR 27204.	
491–030	Registration	11/21/96	5/19/97, 62 FR 27204.	
491–040	Gasoline Vapor Control Requirements	11/21/96	5/19/97, 62 FR 27204.	
491–050	Failures, Certification, Testing & Recordkeeping	11/21/96	5/19/97, 62 FR 27204.	
491–060	Severability	11/21/96	5/19/97, 62 FR 27204.	
	Oxygenated Fuels			
492–010	Policy and Purpose	11/21/96	4/30/97, 62 FR 23363.	
492–020	Applicability	11/21/96	4/30/97, 62 FR 23363.	
492–030	Definitions	11/21/96	4/30/97, 62 FR 23363.	
492–040	Compliance Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–050	Registration Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–060	Labeling Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–070	Control Area and Control Period	11/21/96	4/30/97, 62 FR 23363.	
492–080	Enforcement and Compliance	11/21/96	4/30/97, 62 FR 23363.	
492–090	Unplanned Conditions	11/21/96	4/30/97, 62 FR 23363.	
492–100	Severability	11/21/96	4/30/97, 62 FR 23363.	
	VOC Area Source Rules			
493–100	Consumer Products (Reserved)	05/26/96	5/19/97, 62 FR 27204.	
493–200–010	Applicability	05/26/96	5/19/97, 62 FR 27204.	
493–200–020	Definitions	05/26/96	5/19/97, 62 FR 27204.	
493–200–030	Spray Paint Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204.	
493–200–040	Requirements for Manufacture, Sale and Use of Spray Paint.	05/26/96	5/19/97, 62 FR 27204.	
493–200–050	Recordkeeping & Reporting Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–200–060	Inspection and Testing Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–300–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–300–020	Definitions	5/26/96	5/19/97, 62 FR 27204.	
493–300–030	Standards	5/26/96	5/19/97, 62 FR 27204.	
493–300–040	Requirements for Manufacture, Sale and Use of Architectural Coatings.	5/26/96	5/19/97, 62 FR 27204.	
493–300–050	Recordkeeping & Reporting Requirements	5/26/96	5/19/97, 62 FR 27204.	
493–300–060	Inspection and Testing Requirements	5/26/96	5/19/97, 62 FR 27204.	
493–400–010	Applicability	05/26/96	5/19/97, 62 FR 27204.	
493–400–020	Definitions	05/26/96	5/19/97, 62 FR 27204.	
493–400–030	Coating Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204.	
493–400–040	Requirements for Manufacture & Sale of Coating	05/26/96	5/19/97, 62 FR 27204.	
493–400–050	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	05/26/96	5/19/97, 62 FR 27204.	
493–400–060	Recordkeeping and Reporting Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–400–070	Inspection & Testing Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–500–010	Applicability	05/26/96	5/19/97, 62 FR 27204.	
493–500–020	Compliance Extensions	05/26/96	5/19/97, 62 FR 27204.	
493–500–030	Exemption from Disclosure to the Public	05/26/96	5/19/97, 62 FR 27204.	
493–500–040	Future Review	05/26/96	5/19/97, 62 FR 27204.	
	Washington Department of Ecology Regulations **Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources**			
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	04/10/17, 82 FR 17136	For permits issued under the applicability provisions of WAC 173–400–800.
173–400–118	Designation of Class I, II, and III Areas	12/29/12	04/10/17, 82 FR 17136.	
173–400–560	General Order of Approval	12/29/12	04/10/17, 82 FR 17136	Except: —The part of 173–400–560(1)(f) that says, "173–460 WAC".

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Spokane Regional Clean Air Agency Regulation I Article I—Policy, Short Title, and Definitions				
1.01	Policy	09/01/20	5/10/21, 86 FR 24718	Subsections (A) and (B) replace WAC 173–400–010.
1.02	Name of Agency	09/01/20	5/10/21, 86 FR 24718.	
1.03	Short Title	09/01/20	5/10/21, 86 FR 24718.	
1.04	General Definitions	09/01/20	5/10/21, 86 FR 24718	Except subsections (17), (41), (52), (60), (74), (101), (112), (119), and (122). Section 1.04 replaces WAC 173–400–030 except the WAC 173–400–030 definitions list in this table 9.
1.05	Acronym Index	09/01/20	5/10/21, 86 FR 24718.	
Article II—General Provisions				
2.08	Falsification of Statements or Documents, and Treatment of Documents.	09/01/20	5/10/21, 86 FR 24718	Subsections (E) and (F) only. Subsection (E) replaces WAC 173–400–105(6). Subsection (F) replaces WAC 173–400–105(8).
2.09	Source Tests	09/01/20	5/10/21, 86 FR 24718	Section 2.09 replaces WAC 173–400–105(4).
2.13	Federal and State Regulation Reference Date	09/01/20	5/10/21, 86 FR 24718	Subsection (A) replaces WAC 173–400–025.
2.14	Washington Administrative Codes (WACS)	09/01/20	5/10/21, 86 FR 24718	Subsection (A)(1) only, and only with respect to those revised Chapter 173–400 WAC provisions that are identified for incorporation by reference in this table 9.
Article IV—Registration				
4.03	Registration Exemptions	09/01/20	5/10/21, 86 FR 24718	Subsections (B) and (C) only.
4.04	Stationary Sources and Source Categories Subject to Registration.	09/01/20	5/10/21, 86 FR 24718	Except subsections (A)(3)(u), (A)(3)(v), (A)(5)(b), (A)(5)(e)(9), or any other provision as it relates to the regulation of toxic air pollutants or odors.
4.05	Closure of a Stationary Source or Emissions Unit(s).	09/01/20	5/10/21, 86 FR 24718.	
Article V—New Source Review for Stationary Sources and Portable Sources				
5.02	New Source Review—Applicability and when Required.	09/01/20	5/10/21, 86 FR 24718	Except subsections (C)(5) and (I). Section 5.02 Replaces WAC 173–400–110. Subsection (F) replaces WAC 173–400–111(2).
5.03	NOC and PSP Fees	09/01/20	5/10/21, 86 FR 24718.	
5.04	Information Required	09/01/20	5/10/21, 86 FR 24718	Except subsection (A)(8). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.05	Public Involvement	09/01/20	5/10/21, 86 FR 24718	Except subsection (C)(15). Section 5.05 replaces WAC 173–400–171.
5.06	Application Completeness Determination	09/01/20	5/10/21, 86 FR 24718	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.07	Processing NOC Applications for Stationary Sources.	09/01/20	5/10/21, 86 FR 24718	Except subsections (A)(1)(g) and (B). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111, and subsection 5.07(A)(7) replaces WAC 173–400–110(2)(a).
5.08	Portable Sources	09/01/20	5/10/21, 86 FR 24718	Except subsection (A)(6). Section 5.08 replaces WAC 173–400–036.
5.09	Operating Requirements for Order of Approval and Permission to Operate.	09/01/20	5/10/21, 86 FR 24718	Except subsection (C).
5.10	Changes to an Order of Approval or Permission to Operate.	09/01/20	5/10/21, 86 FR 24718	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.11	Notice of Startup of a Stationary Source or a Portable Source.	09/01/20	5/10/21, 86 FR 24718.	
5.12	Work Done Without an Approval	09/01/20	5/10/21, 86 FR 24718.	
5.13	Order of Approval Construction Time Limits	09/01/20	5/10/21, 86 FR 24718	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.14	Appeals	09/01/20	5/10/21, 86 FR 24718	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.15	Obligation to Comply	09/01/20	5/10/21, 86 FR 24718.	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Article VI—Emissions Prohibited				
6.04	Emission of Air Contaminant: Detriment to Person or Property.	09/01/20	5/10/21, 86 FR 24718	Subsections (A), (B), (C), and (H) only and excepting provisions in RCW 70.94.640 (incorporated by reference) that relate to odor. Subsection (C) replaces WAC 173–400–040(6).
6.05	Particulate Matter & Preventing Particulate Matter from Becoming Airborne.	09/01/20	5/10/21, 86 FR 24718	Except subsection (A). Section 6.05 supplements but does not replace WAC 173–400–040(4) and (9).
6.07	Emission of Air Contaminant Concealment and Masking Restricted.	09/01/20	5/10/21, 86 FR 24718	Section 6.07 replaces WAC 173–400–040(8).
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	09/01/20	5/10/21, 86 FR 24718	Section 6.14 supplements but does not replace WAC 173–400–040(9).
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	09/01/20	5/10/21, 86 FR 24718	Section 6.15 supplements but does not replace WAC 173–400–040(9).
Article VIII—Solid Fuel Burning Device Standards				
8.01	Purpose	9/02/14	9/28/15, 80 FR 58216.	
8.02	Applicability	9/02/14	9/28/15, 80 FR 58216.	
8.03	Definitions	9/02/14	9/28/15, 80 FR 58216.	
8.04	Emission Performance Standards	9/02/14	9/28/15, 80 FR 58216	Except the incorporation by reference of WAC 173–433–130, 173–433–170, and 173–433–200.
8.05	Opacity Standards	9/02/14	9/28/15, 80 FR 58216.	
8.06	Prohibited Fuel Types	9/02/14	9/28/15, 80 FR 58216.	
8.07	Curtailment	9/02/14	9/28/15, 80 FR 58216.	
8.08	Exemptions	9/02/14	9/28/15, 80 FR 58216.	
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	9/02/14	9/28/15, 80 FR 58216.	
8.10	Restrictions on Installation of Solid Fuel Burning Devices.	9/02/14	9/28/15, 80 FR 58216.	
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources: Adopted by Reference in SRCAA Regulation I, Subsection 2.14(A)(1)				
173–400–020	Applicability	12/29/12	5/10/21, 86 FR 24718.	
173–400–030(24)	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	9/16/18	5/10/21, 86 FR 24718	Only the following definitions: Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste.
173–400–040(1)(a) & (b).	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726.	
173–400–040	General Standards for Maximum Emissions	9/16/18	5/10/21, 86 FR 24718	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5); 173–400–040(6); 173–400–040(8).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	5/10/21, 86 FR 24718	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units	11/25/18	5/10/21, 86 FR 24718.	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions	4/1/11	5/10/21, 86 FR 24718	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995).
173–400–105	Records, Monitoring and Reporting	11/25/18	5/10/21, 86 FR 24718	Except: 173–400–105(3); 173–400–105(4); 173–400–105(6); 173–400–105(8).
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–112	Requirements for New Sources in Nonattainment Areas.	12/29/12	5/10/21, 86 FR 24718	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	12/29/12	5/10/21, 86 FR 24718	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/10/21, 86 FR 24718.	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	5/10/21, 86 FR 24718.	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–131	Issuance of Emission Reduction Credits	4/1/11	5/10/21, 86 FR 24718.	
173–400–136	Use of Emission Reduction Credits (ERC)	12/29/12	5/10/21, 86 FR 24718.	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	5/10/21, 86 FR 24718.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–175	Public Information	2/10/05	5/10/21, 86 FR 24718.	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/10/21, 86 FR 24718.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	5/10/21, 86 FR 24718	Except: The part of 173–400–560(1)(f) that says, "173–460 WAC".
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	5/10/21, 86 FR 24718	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (see the FEDERAL REGISTER of August 24, 2016); nor does SRCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	5/10/21, 86 FR 24718.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/10/21, 86 FR 24718.	
173–400–830	Permitting Requirements	7/1/16	5/10/21, 86 FR 24718.	
173–400–840	Emission Offset Requirements	7/1/16	5/10/21, 86 FR 24718.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	5/10/21, 86 FR 24718.	
173–400–860	Public Involvement Procedures	4/1/11	5/10/21, 86 FR 24718.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Yakima Regional Clean Air Agency Regulations Article I—Policy, Short Title and Definitions				
1.01	Policy	12/15/95	2/2/98, 63 FR 5269.	
1.02	Short Title	11/18/93	2/2/98, 63 FR 5269.	
1.03	Definitions	12/15/95	2/2/98, 63 FR 5269.	
Article II—General Provisions				
2.02	Control Officer- Powers & Duties	11/18/93	2/2/98, 63 FR 5269.	
2.03	Miscellaneous Provisions	11/18/93	2/2/98, 63 FR 5269.	
2.04	Confidentiality	11/18/93	2/2/98, 63 FR 5269.	
2.05	Advisory Council	11/18/93	2/2/98, 63 FR 5269.	
Article III—Violations—Orders and Hearings				
3.01	Notice of Violation—Corrective Action Hearings	11/18/93	2/2/98, 63 FR 5269.	
3.02	Finality of Order	11/18/93	2/2/98, 63 FR 5269.	
3.03	Stay of Order Pending Appeal	11/18/93	2/2/98, 63 FR 5269.	
3.04	Voluntary Compliance	11/18/93	2/2/98, 63 FR 5269.	
Article IV—Registration and Notice of Construction				
4.01	Registration	12/15/95	2/2/98, 63 FR 5269.	
4.02	Notice of Construction	12/15/95	2/2/98, 63 FR 5269.	
4.03	Exceptions to Article 4	11/18/93	2/2/98, 63 FR 5269.	
Article V—Emissions Standards and Preventative Measures				
5.01	Outdoor Burning	12/15/95	2/2/98, 63 FR 5269.	
5.02	Regulations Applicable to all Outdoor Burning	12/15/95	2/2/98, 63 FR 5269.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION—Continued

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
5.03	Regulations Applicable to all Outdoor Burning within Jurisdiction of the Yakima County Clean Air Authority, Local Cities, Towns, Fire Protection Districts and Conservation Districts.	12/15/95	2/2/98, 63 FR 5269.	
5.04	Regulations Applicable to Permits Issued by the Yakima County Clean Air Authority for all Other Outdoor Burning.	12/15/95	2/2/98, 63 FR 5269.	
5.05	Additional Restrictions on Outdoor Burning	12/15/95	2/2/98, 63 FR 5269.	
5.06	General Standards for Maximum Permissible Emissions.	12/15/95	2/2/98, 63 FR 5269.	
5.07	Minimum Emission Standards for Combustion and Incineration Sources.	12/15/95	2/2/98, 63 FR 5269.	
5.08	Minimum Emissions Standards for General Process Sources.	12/15/95	2/2/98, 63 FR 5269.	
5.10	Sensitive Area Designation	6/20/94	2/2/98, 63 FR 5269.	
5.11	Monitoring and Special Reporting	12/15/95	2/2/98, 63 FR 5269.	
5.12	Preventive Measures	11/18/93	2/2/98, 63 FR 5269.	
	Article VIII—Penalty and Severability			
8.01	Penalty for Violation	11/18/93	2/2/98, 63 FR 5269.	
8.02	Additional/Alternative Penalties	12/15/95	2/2/98, 63 FR 5269.	
8.03	Assurance of Discontinuance	11/18/93	2/2/98, 63 FR 5269.	
8.04	Restraining Order—Injunctions	11/18/93	2/2/98, 63 FR 5269.	
8.05	Severability	12/15/95	2/2/98, 63 FR 5269.	
	Article IX—Woodstoves and Fireplaces			
9.01	Policy	11/18/93	2/2/98, 63 FR 5269.	
9.02	Opacity	11/18/93	2/2/98, 63 FR 5269.	
9.03	Prohibitive Fuel Types	11/18/93	2/2/98, 63 FR 5269.	
9.04	Limitations of Sales of Solid Fuel Burning Devices.	11/18/93	2/2/98, 63 FR 5269.	
9.05	Prohibition of Visible Emissions During Air Pollution Episodes.	12/15/95	2/2/98, 63 FR 5269.	
	Article XII—Adoption of State and Federal Regulations			
12.01	State Regulations	12/15/95	2/2/98, 63 FR 5269.	
	Article XIII—Fee Schedules and Other Charges			
13.01	Registration and Fee Schedule	1/13/94	2/2/98, 63 FR 5269.	
13.02	Notice of Construction Fee Schedule	6/20/94	2/2/98, 63 FR 5269.	
13.03	Outdoor Burning Permit Fees	6/20/94	2/2/98, 63 FR 5269.	
	Washington Department of Ecology Regulations **Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources**			
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726.	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–040	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units	3/22/91	6/2/95, 60 FR 28726.	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the **Federal Register** of June 2, 1995.
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726.	
173–400–105	Records, Monitoring and Reporting	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726.	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection	3/22/91	6/2/95, 60 FR 28726.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION—Continued

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726.	

(d) *EPA-approved state source-specific requirements.*

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS [1]

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
Boise Cascade, Wallula Mill.	1614–AQ04	9/15/04	5/2/05, 70 FR 22597.	Following conditions only: No. 1 (Approval Conditions) & Appendix A.
Emission Limits for Significant Stack Sources.	various orders	various dates	10/26/95, 60 FR 54812.	
Honam, Inc., Ideal Division (now known as LaFarge North America, Inc.).	#5183	2/9/94	8/31/04, 69 FR 53007.	
Saint Gobain Containers LLC.	#8244	9/9/99	8/31/04, 69 FR 53007.	
Kaiser Order—Alternate Opacity Limit.	91–01	12/12/91	1/27/97, 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit.	96–03	10/4/00	7/1/05, 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit.	96–04	4/24/96	1/27/97, 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit.	96–05	10/4/00	7/1/05, 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit.	96–06	10/19/00	7/1/05, 70 FR 38029.	
RACT Limits for Centralia Power Plant.	#97–2057R1	2/26/98	6/11/03, 68 FR 34821.	
BP Cherry Point Refinery.	Administrative Order No. 7836, Revision 2.	5/13/15	2/16/16, 81 FR 7710.	The following conditions: 1.1, 1.1.1, 1.2, 1.2.1,1.2.2, 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2, 2.8.3, 2.8.4, 2.8.5, 2.8.6, 3, 3.1, 3.1.1,3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4, 5, 5.1, 5.2, 6, 6.1, 6.2, 6.3, 7, 9.
Alcoa Intalco Works.	Administrative Order No. 7837, Revision 1.	11/15/10	6/11/14, 79 FR 33438.	The following conditions: 1, 2., 2.1, 3., 4., 4.1, Attachment A conditions: A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14.

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS [1]—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
Tesoro Refining and Marketing Company.	Administrative Order 7838.	7/7/10	6/11/14, 79 FR 33438.	The following conditions: 1., 1.1, 1.1.1, 1.1.2, 1.2, 1.3, 1.4, 1.5, 1.5.1, 1.5.1.1,1.5.1.2, 1.5.1.3, 1.5.2, 1.5.3, 1.5.4, 1.5.5, 1.5.6, 2., 2.1, 2.1.1, 2.1.1.1, 2.1.2, 2.1.3, 2.2, 2.2.1, 3. 3.1, 3.1.1, 3.1.2, 3.1.2.1, 3.1.2.2, 3.1.2.3, 3.2, 3.2.1, 3.2.1.1, 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.4.1, 3.2.1.4.2, 3.2.1.4.3, 3.2.1.4.4, 3.2.1.4.5, 3.3, 3.3.1, 3.4, 3.4.1, 3.4.2, 4., 4.1, 5., 5.1, 6., 6.1, 6.1.1, 6.1.2, 6.1.3, 6.1.4, 7., 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.2, 7.2.1, 7.2.2, 7.2.3, 7.2.4, 8. 8.1, 8.1.1, 8.1.2, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.3, 8.3.1, 8.3.2, 9., 9.1, 9.1.1, 9.1.2, 9.2, 9.2.1, 9.39.3.1, 9.3.2, 9.3.3,9.4, 9.4.1, 9.4.2, 9.4.3, 9.4.5, 9.4.6, 9.5, 10, 11, 12, 13, 13.1, 13.2, 13.3, 13.4, 13.5, 13.6.
Port Townsend Paper Corporation.	Administrative Order No. 7839, Revision 1.	10/20/10	6/11/14, 79 FR 33438.	The following Conditions:1, 1.1, 1.2, 1.3, 2, 2.1, 3, 3.1, 4.
Lafarge North America, Inc. Seattle, Wa.	Administrative Revised Order No. 7841.	7/28/10	6/11/14, 79 FR 33438.	The following Conditions: 1, 1.1, 1.2, 2, 2.1, 2.1.1, 2.1.2, 2.2, 2.3, 3, 3.1, 3.1.1, 3.1.2, 3.1.3, 3.2, 3.3, 4, 4.1, 5, 5.1, 5.1.1, 5.1.2, 5.2, 5.3, 6, 6.1, 7, 7.1, 7.2, 7.3, 7.4, 7.5, 8, 8.1, 8.2, 8.3, 8.4, 8.5, 9, 10, 11, 12.
Weyerhaeuser Corporation, Longview, Wa.	Administrative Order No. 7840.	7/7/10	6/11/14, 79 FR 33438.	The following Conditions: 1, 1.1, 1.1.1, 1.1.2, 1.1.3, 1.2, 1.2.1, 1.2.2, 1.2.3, 1.3, 1.3.1, 1.4, 2, 2.1, 3, 3.1, 4, 4.1.
Tyson Fresh Meats, Inc.	13AQ–E526	4/16/14	5/1/20, 85 FR 25306.	Except: 1. Decontamination Cabinets; 2. Meat Cutting/Packing; 6. Wastewater Floatation; 8. Utility Equipment; 10. Other; References to "WAC 173–460–040" in Determinations"; The portion of Approval Condition 2.a which states, "and consumption of no more than 128 million cubic feet/of natural gas per year. Natural gas consumption records for the dryer shall be maintained for the most recent 24 month period and be available to Ecology for inspection. An increase in natural gas consumption that exceeds the above level may require a Notice of Construction."; Approval Condition 3; Approval Condition 4; Approval Condition 5; Approval Condition 6.e; Approval Condition 9.a.ii; Approval Condition 9.a.iv; Approval Condition 9.a.v; Approval Condition 9.a.vi; Approval Condition 10.a.ii; Approval Condition 10.b; Approval Condition 11.a; Approval Condition 11.b; Approval Condition 11.e; Approval Condition 12; Approval Condition 15; The section titled "Your Right to Appeal"; and The section titled "Address and Location Information."
Packaging Corporation of America (Wallula Mill).	0003697	4/1/18	5/1/20, 85 FR 25306.	Condition P.1 only.
Simplot Feeders Limited Partnership.	Fugitive Dust Control Plan.	3/1/18	5/1/20, 85 FR 25306.	
TransAlta Centralia BART—Second Revision.	#6426	7/29/20	5/7/21, 86 FR 24502.	Except the undesignated introductory text, the section titled "Findings," and the undesignated text following condition 9.

[1] The EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Washington Department of Ecology may request removal by submitting such a demonstration to the EPA as a SIP revision.

* * * * *

[FR Doc. 2021–15878 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2021–0012; FF09E21000 FXES11110900000 212]

Endangered and Threatened Wildlife and Plants; 12-Month Determination on a Petition To Revise Critical Habitat for the Mount Graham Red Squirrel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: 12-Month determination.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month determination on a petition to revise critical habitat for the Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*) under the Endangered Species Act of 1973, as amended (Act). The petition requests that the Service expand the subspecies' critical habitat designation to include currently occupied mixed conifer habitat and all historically occupied habitat outside the current critical habitat designation. Our 12-month determination is that we intend to assess revisions to the subspecies' critical habitat after a species status assessment and revised recovery plan for the Mount Graham red squirrel are completed.

DATES: The determination announced in this document was made on August 3, 2021.

ADDRESSES: This determination is available on the internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2021–0012. Information and supporting documentation that we received and used in preparing this finding is available for public inspection pursuant to current COVID–19 restrictions. You may contact the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Tucson Sub-Office, 201 N Bonita, Suite 141, Tucson, AZ 85745 for further information about these restrictions. Please submit any new information, materials, comments, or questions concerning this finding to the above mailing address.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Attn: Jeff Humphrey, to the mailing address in **ADDRESSES**, telephone: 602–242–0210, or email: *incomingazcorr@fws.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(D)(ii) of the Act (16 U.S.C. 1531 *et seq.*) states that within 12 months after receiving a petition to revise a critical habitat designation that is found to present substantial information indicating that the requested revision may be warranted, the Secretary will determine how he or she intends to proceed with the requested revision, and will promptly publish notice of such intention in the **Federal Register**.

Previous Federal Actions

On June 3, 1987, we published in the **Federal Register** (52 FR 20994) a final rule listing the Mount Graham red squirrel (red squirrel) as an endangered subspecies of the red squirrel, or pine squirrel (*T. hudsonicus* species account: Steele 1998, p. 1), pursuant to the Act. We concluded that the Mount Graham red squirrel was endangered because its range and habitat had been reduced and its habitat was at risk due to a number of factors, including the proposed construction of an astrophysical observatory, occurrences of forest fires, proposed construction and improvement of roads, and recreational development at high elevations. The rule concluded that red squirrels might also suffer due to resource competition with the introduced Abert's, or tassel-eared, squirrel (*Sciurus aberti*).

On January 5, 1990, we published in the **Federal Register** (55 FR 425) a final rule designating approximately 769 hectares (ha) (1,900 acres (ac)) in three separate units as critical habitat for the Mount Graham red squirrel. Critical habitat encompasses the Mount Graham Red Squirrel Refugium, which resulted from a July 1988 biological opinion and subsequent Arizona-Idaho Conservation Act of 1988 (Pub. L. 100–696, November 18, 1988), on Hawk and Plain View peaks (about 688 ha (1,700 ac)), as well as areas outside the Refugium on Heliograph and Webb Peaks (about 81 ha (200 ac)). The main attribute of critical habitat at that time was existing dense stands of mature (about 300 years old) spruce-fir forest, which has since been damaged by drought, insects, wildfire, and associated wildfire-suppression activities.

On January 11, 2006, we initiated a 5-year review of the Mt. Graham red squirrel (71 FR 1765); that 5-year review was completed on January 15, 2008. On May 27, 2011, we announced the availability of, and requested public comments on, a draft recovery plan, first revision, for the Mount Graham red squirrel (76 FR 30957).

Petition History

On December 14, 2017, we received a petition from the Center for Biological Diversity, Maricopa Audubon Society, and the Mount Graham Coalition requesting that critical habitat for the Mount Graham red squirrel be revised under the Act, on an emergency basis. The petition requests that the Service expand the subspecies' critical habitat designation to include currently occupied mixed conifer habitat and all historically occupied habitat outside the current critical habitat designation. In general, the petitioners recommend expanding the current designation of critical habitat to include mixed conifer and spruce-fir forest above 7,500 feet (ft) (2,286 meters (m)), including specific areas currently occupied by the Mount Graham red squirrel at Grant Hill, Riggs Lake, Turkey Flat, and Columbine. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at 50 CFR 424.14(c). Because the Act does not provide for petitions to revise critical habitat in an emergency, we considered it as a petition to revise critical habitat for the red squirrel.

We published our 90-day finding on the petition to revise critical habitat for the Mount Graham red squirrel on September 6, 2019 (84 FR 46927). We determined that the petition presented substantial scientific information indicating that revising critical habitat for the Mount Graham red squirrel under the Act may be warranted, thus initiating the review that led to this 12-month determination.

This 12-month determination addresses the petition's request to revise the Mount Graham red squirrel's currently designated critical habitat.

Species Information

Mount Graham red squirrels are found only in the high-elevation forests of the Pinaleño Mountains in the Safford Ranger District of the Coronado National Forest in southeastern Arizona. The subspecies inhabits upper elevation, mature to old-growth associations in mixed conifer and spruce-fir forests above approximately 7,500 ft (2,286 m).

Mount Graham red squirrels are highly territorial (C.C. Smith 1968, pp. 33–34) and create middens within their territory. The middens in each squirrel's territory consist of piles of cone scales in which squirrels cache live, unopened cones as a food source for over-wintering and during times of cone

failure (M.C. Smith 1968, pp. 308–309; Finley 1969, all; Steele and Koprowski 2001, p. 67). Placement of these middens tends to be on gentler, non-southerly-facing slopes in healthier, older forested areas with higher canopy closure, basal area, and number of large live trees (Finley 1969, p. 237; Zugmeyer and Koprowski 2009, p. 179; Hatten 2014, p. 111). This type of placement allows specific moisture levels to be maintained within the midden, thereby creating prime storage conditions for cones and other food items, such as mushrooms, acorns, and bones (Finley 1969, p. 237; Brown 1984, pp. 66–67; USFWS 1993, pp. 5–7; Zugmeyer and Koprowski 2009, p. 179). They also seem to prefer areas with snags, piles and tangles of downed timber, and a higher volume of logs that provide cover and safe travel routes, especially in winter, when open travel across snow exposes them to increased predation, as the species does not hibernate. Wood et al. (2007, p. 2362) determined that midden site selection occurs not only at the microclimate level (where conditions are appropriate for cone storage), but also on a larger scale that encompasses other features found on the landscape, usually in areas with a high number of healthy trees and correspondingly high seedfall. There appears to be no differentiation in selection of midden sites based on sex (Alanen et al. 2009, pp. 204–205).

Within their territory, Mount Graham red squirrels build nests in hollow trees, in hollow snags, in hollow logs, outside trees in nests of grass or foliose lichens (called dreys or bolus nests), or in holes in the ground (C.C. Smith 1968, p. 58; Leonard and Koprowski 2009, p. 132). Nests may be built in natural hollows or abandoned cavities made by other animals, such as woodpeckers, and enlarged by squirrels (USFWS 1993, p. 11). Nest site selection by Mount graham red squirrels is strongly influenced by stand composition, particularly density of corkbark fir, mature (large) trees, and decaying logs (Merrick et al. 2007, p. 1961). The availability of larger snags and cavity-containing trees, especially aspen, is of particular importance for this population, as they provide preferred nesting locations (Merrick et al. 2007, p. 1961).

Critical Habitat

Current Critical Habitat Designation

On January 5, 1990, we published a final rule (55 FR 425) designating critical habitat for the Mount Graham red squirrel as mature spruce-fir forest in:

1. Hawk Peak-Mount Graham Area. The area above the 10,000-ft (3,048-m) contour surrounding Hawk Peak and Plain View Peak, plus the area above the 9,800-ft (2,987-m) contour that is south of lines extending from the highest point of Plain View Peak eastward at 90° (from true north) and southwestward at 225° (from true north).

2. Heliograph Peak Area. The area on the north-facing slope of Heliograph Peak that is above the 9,200-ft (2,804-m) contour surrounding Heliograph Peak and that is between a line extending at 15° (from true north) from a point 160 ft (49 m) due south of the horizontal control station on Heliograph Peak and a line extending northwestward at 300° (from true north) from that same point.

3. Webb Peak Area. The area on the east facing slope of Webb Peak that is above the 9,700-ft (2,957-m) contour surrounding Webb Peak and that is east of a line extending due north and south through a point 160 ft (49 m) due west of the horizontal control station on Webb Peak.

12-Month Determination

Pursuant to the provisions of the Act regarding revision of critical habitat and petitions for revision, we now publish notice of how we intend to proceed with the requested revision. As described below under *How the Service Intends to Proceed,* we intend to assess potential revisions to the subspecies' critical habitat after a species status assessment (SSA) and a revision of the Mount Graham red squirrel's recovery plan are complete.

How the Service Intends To Proceed

Section 4(b)(3)(D)(ii) of the Act states that if we find that a petition presents substantial information indicating that a revision to critical habitat may be warranted, then within 12 months of receiving the petition we are to indicate how we intend to proceed with the requested revision and promptly publish a notice of our intention in the **Federal Register**. We intend that any revisions to critical habitat for the Mount Graham red squirrel be as accurate and comprehensive as possible. Therefore, completing the SSA and a revised recovery plan will inform any future revisions to critical habitat for the red squirrel. Once the SSA and revised recovery plan are complete, a rulemaking process will be initiated if revisions to the subspecies' critical habitat are determined to be appropriate.

The currently designated critical habitat, as well as areas that support the subspecies but are outside of the current critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act. Actions affecting the Mount Graham red squirrel or its designated critical habitat are subject to the regulatory protections afforded by section 7(a)(2) of the Act, which requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

References Cited

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

Author

The primary authors of this document are the staff members of the Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–16247 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2019–0006; FF09E21000 FXES11110900000 212]

RIN 1018–BC62

Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Sierra Nevada Distinct Population Segment of the Sierra Nevada Red Fox

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the Sierra Nevada Distinct Population Segment (DPS) of the Sierra Nevada red fox (*Vulpes vulpes necator*) (hereafter referred to in

this rule as the Sierra Nevada DPS). The Sierra Nevada red fox is a small mammal occurring in California and Oregon, with the Sierra Nevada DPS of this broader taxon inhabiting the highest elevations of the Sierra Nevada mountain range in California. This rule adds the Sierra Nevada DPS of Sierra Nevada red fox to the List of Endangered and Threatened Wildlife.

DATES: This rule is effective September 2, 2021.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2019–0006. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2019–0006.

FOR FURTHER INFORMATION CONTACT: Michael Fris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825; telephone 916–414–6700. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

What this document does. This rule will finalize listing the Sierra Nevada DPS of the Sierra Nevada red fox (*Vulpes necator*) (Sierra Nevada DPS) as an endangered species under the Endangered Species Act. This rule adds the Sierra Nevada DPS to the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h).

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the Sierra Nevada DPS faces the following threats: (1) Deleterious impacts associated with small population size, such as inbreeding depression and reduced genomic integrity (Factor E); (2) hybridization with nonnative red fox (Factor E); and possibly (3) reduced prey availability and competition with coyotes resulting from reduced snowpack levels (Factor E). Existing regulatory mechanisms and conservation efforts do not address the threats to the Sierra Nevada DPS to the extent that listing the DPS is not warranted (Factor D).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. In this case, we have found that the designation of critical habitat for the Sierra Nevada DPS is not prudent.

Peer review and public comment. During the proposed rule stage, we sought the expert opinions of five appropriate specialists regarding the species status assessment (SSA) report. We received responses from two specialists, which informed our determination. We also considered all comments and information received from the public during the comment period.

Previous Federal Actions

On January 8, 2020, we published a proposed rule in the **Federal Register** (85 FR 862) to list the Sierra Nevada DPS as an endangered species under the Act (16 U.S.C. 1531 *et seq.*). Please refer to that proposed rule for a detailed description of previous Federal actions concerning this DPS, which we refer to as a ''species'' or ''subspecies'' in this rule, in accordance with the Act's definition of ''species'' at 16 U.S.C. 1532(16).

Summary of Changes From the Proposed Rule

In preparing this final rule, we reviewed and fully considered comments from the public on the proposed rule. We did not make any substantive changes to this final rule after consideration of the comments we received. We did update some biological and threats information based on comments and some additional information provided, as follows: (1) We made several nonsubstantive clarifications and corrections (including addition of information related to potential snowmobiling impacts) in the Species Information and *Summary of Biological Status and Threats* sections of this rule in order to ensure better consistency, clarify some information, and update or add new references; (2) we included additional information we received regarding observations of Sierra Nevada DPS detections and population size across its range; and (3) we added a summary discussion of the threat of habituation to humans and human-based food sources in this rule, which was based on additional information provided by a commenter. However, the information we received during the comment period for the proposed rule did not change our previous analysis of the magnitude or severity of threats facing the DPS.

Supporting Documents

A species status assessment (SSA) team prepared an SSA report for the Sierra Nevada DPS (Service 2018, entire). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the DPS, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought peer review of the SSA report. The Service sent the SSA report to five independent peer reviewers and received two responses. The purpose of peer review is to ensure that our listing determinations are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and threats to the species. The Service also sent the SSA report to five agency partners and three Tribes, including scientists with expertise in the Sierra Nevada DPS, conservation biology, and forest management, for review. We received reviews from five partners: The fish and wildlife agencies of California and Nevada, the National Park Service, the U.S. Forest Service (USFS), and the U.S. Marine Corps.

Final Listing Determination

Background

A thorough review of the taxonomy, life history, ecology, and overall viability of the Sierra Nevada DPS is presented in the SSA report (Service 2018; available at *http://www.regulations.gov*). This report summarizes the relevant biological data and a description of past, present, and likely future stressors, and presents an analysis of the viability of the Sierra Nevada DPS. The SSA report documents

the results of the comprehensive biological status review, provides an evaluation of how potential threats may affect the species' viability both currently and into the future, and provides the scientific basis that informed our regulatory decision regarding whether this DPS should be listed as an endangered or threatened species under the Act, as well as the risk analysis on which the determination was based (Service 2018, entire). The following discussion is a summary of the SSA report.

Species Information

Red foxes (*Vulpes vulpes*) are small, slender, doglike carnivores, with elongated snouts, pointed ears, and large bushy tails (Aubry 1997, p. 55; Perrine 2005, p. 1; Perrine *et al.* 2010, p. 5). The Sierra Nevada red fox is one of 10 North American subspecies of the red fox (Hall 1981, p. 938; Perrine *et al.* 2010, p. 5). Diagnostic features, by which red foxes can be distinguished from other small canines, include black markings on the backs of their ears, black shins, and white tips on their tails (Statham *et al.* 2012, p. 123).

Sierra Nevada red foxes average about 4.2 kilograms (kg) (9.3 pounds (lb)) for males and 3.3 kg (7.3 lb) for females, as compared to the general North American red fox average of about 5 kg (11 lb) for males and 4.3 kg (9.5 lb) for females (Perrine *et al.* 2010, p. 5).

The Sierra Nevada red fox is characterized by what appears to be specialized adaptations to cold areas (Sacks *et al.* 2010, p. 1524). These apparent adaptations include a particularly thick and deep winter coat (Grinnell *et al.* 1937, p. 377), longer hind feet (Fuhrmann 1998, p. 24), and small toe pads (4 millimeters (mm) (0.2 inch (in)) across or less) that are completely covered in winter by dense fur, which may facilitate movement over snow (Grinnell *et al.* 1937, pp. 378, 393; Fuhrmann 1998, p. 24; Sacks 2014, p. 30). The Sierra Nevada red fox's smaller size may also be an adaptation to facilitate movement over snow by lowering weight supported by each footpad (Quinn and Sacks 2014, p. 17), or it may simply result from the reduced abundance of prey at higher elevations (Perrine *et al.* 2010, p. 5).

Genetic analyses indicate that red foxes living near Sonora Pass, California, as of 2010 are descendants of the Sierra Nevada red fox population that was historically resident in the area (Statham *et al.* 2012, pp. 126–129). This is the only population known to exist in the Sierra Nevada mountain range, and is thus the last known remnant of the larger historical population that occurred along the upper elevations of the Sierra Nevada mountain range from Tulare to Sierra Counties. The only other known Sierra Nevada red fox population in California is located near Lassen Peak, in the southern Cascade mountain range, and shows clear genetic differences from the Sonora Pass population (Statham *et al.* 2012, pp. 129–130) (see also DPS analysis in our October 8, 2015, 12-month finding (80 FR 61011)). The population near Lassen Peak is part of another population segment, whose range also includes the Cascade Mountains of Oregon. We determined that listing the Southern Cascades population segment was not warranted in 2015 (80 FR 60989).

Range and Habitat

Based on known detections, as well as what is known regarding high-quality habitat, we consider the current range of the Sierra Nevada DPS to run southeast along the Sierra crest from just south of California State Highway 88 to a few miles north of Kings Canyon National Park (Figure 1). The range includes the easternmost portion of Yosemite National Park (hereafter referred to as ''Yosemite''), in Tuolumne and Madera Counties, as well as additional portions of those counties, and of Alpine, Mono, Fresno and Inyo Counties (Cleve *et al.* 2011, entire; Sacks *et al.* 2015, pp. 10, 14; Eyes 2016, p. 2; Hiatt 2017, p. 1; Figure 1; Quinn 2018a, attachments; Stermer 2018, p. 1).

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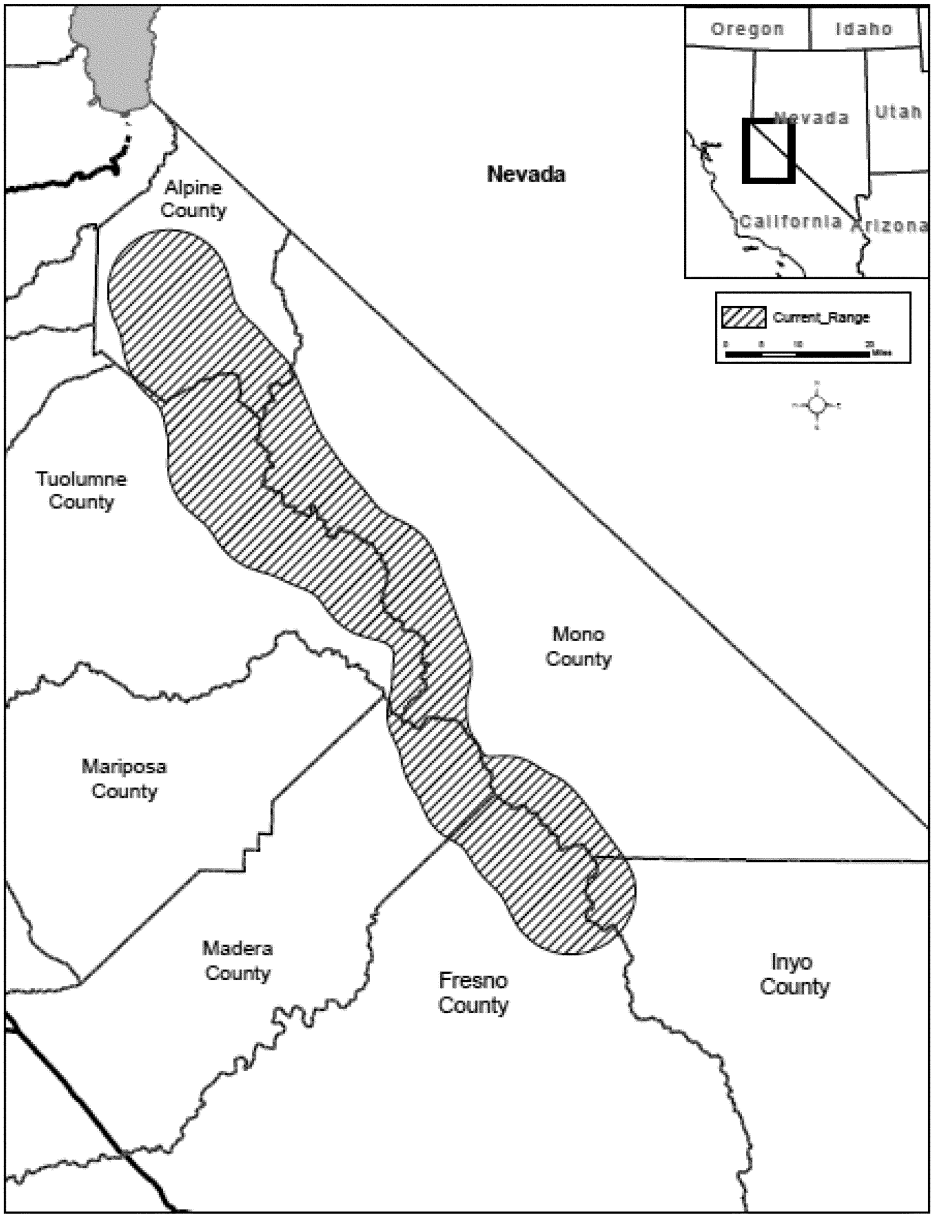

Figure 1—Approximate current range of the Sierra Nevada DPS of Sierra Nevada red fox. The range follows the Sierra crest (the north-to-south ridgeline of the Sierra Nevada mountain range), and includes known sighting locations and nearby high-quality habitat (Cleve *et al.* 2011, entire; Eyes 2016, attachments; Hiatt 2017, attachment; Quinn 2018a, attachments; Quinn 2018a, attachments; Stermer 2018, p. 1).

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Sierra Nevada DPS sightings have consistently occurred in subalpine habitat and high-elevation conifer areas at elevations ranging from 2,469 to 3,538 meters (m) (8,100 to 11,608 feet (ft)) (Sacks *et al.* 2015, pp. 3, 11; Dunkelberger 2020, p. 3). Four detections (out of more than 750 scat or hair samples that have been obtained since 2011) have occurred at lower elevations (from 6,805 to 7,059 ft (2,074 to 2,152 m)), but these outliers appear to be from three individuals that were in the process of dispersing (Quinn 2020, p. 1). In the Sonora Pass area used by the Sierra Nevada DPS, subalpine habitat is characterized by a mosaic of high-elevation meadows, rocky areas, scrub vegetation, and woodlands (largely mountain hemlock (*Tsuga mertensiana*), whitebark pine (*Pinus albicaulus*), and lodgepole pine (*Pinus contorta*)) (Fites-Kaufman *et al.* 2007, p. 475; Sacks *et al.* 2015, p. 11; Quinn 2017, p. 3). Snow cover is typically heavy, and the growing season lasts only 7 to 9 weeks (Verner and Purcell 1988, p. 3). Forested areas are typically relatively open and patchy (Verner and Purcell 1988, p. 1; Lowden 2015, p. 1), and trees may be stunted and bent (krumholtzed) by the wind and low temperatures (Verner and Purcell 1988, p. 3; Sacks *et al.* 2015, p. 11).

Feeding

Individuals of the Sierra Nevada DPS are opportunistic predators of small mammals such as rodents (Perrine *et al.* 2010, pp. 24, 30, 32–33; Cross 2015, p. 72). Leporids such as snowshoe hare (*Lepus americanus*) and white-tailed jackrabbit (*Lepus townsendii*) are also an important food source for the Sierra Nevada DPS, particularly in winter and early spring (Aubry 1983, p. 109; Rich 2014, p. 1; Quinn 2017, pp. 3–4; Sacks 2017, p. 3).

Life History

Although information regarding Sierra Nevada DPS reproductive biology is limited, it is likely similar in many ways to other North American red fox subspecies (Aubry 1997, p. 57). Other subspecies are predominantly monogamous, with a gestation period of 51 to 53 days (Perrine *et al.* 2010, p. 14). Based on information from both the Sierra Nevada and Southern Cascades populations, Sierra Nevada DPS foxes likely mate in mid-February to early March, with births occurring in April and early May (Dunkelberger 2020, p. 1; Sacks and Quinn 2020, p. 3). This is somewhat later than lowland subspecies, possibly as an adaptation to the later growth of spring vegetation at higher elevations (Quinn and Sacks 2020, p. 3). Members of the Sierra Nevada DPS use natural openings in rock piles or crevices in exposed bedrock as denning sites (Grinnell *et al.* 1937, p. 394). Individual foxes from the Southern Cascades population in both Oregon and California have also recently been found to dig earthen dens (Dunkelberger 2020, p. 2; Sacks and Quinn 2020, p. 3), suggesting that Sierra Nevada DPS foxes do as well. Dens are used by foxes in the Southern Cascades population (and likely in the Sierra Nevada DPS) to raise the young from early spring through early fall, and they are often reused from year to year (Dunkelberger 2020, pp. 1–3). A 7-year study of the Sierra Nevada DPS found litter sizes of 2.3 pups on average (9 litters and 21 pups, not counting one purely nonnative litter) (Quinn and Sacks 2018, p. 38). This is within the range of two to three pups per litter that appear to be typical in the Southern Cascades population (Perrine 2005, p. 152). Reproductive output is generally lower in montane foxes than in those living at lower elevations, possibly due to comparative scarcity of food (Perrine 2005, pp. 152–153; Sacks 2017, p. 2).

Demographics

In our proposed listing rule (85 FR 862, p. 866), we estimated the population size of the Sierra Nevada DPS at 10 to 50 adults. Based on comments received, we now revise that estimate to approximately 18 to 39 individuals, of which 10 to 31 are north of Yosemite (Sacks and Quinn 2020, p. 1), about 5 are in or just east of Yosemite (Central Sierra Environmental Resource Center (CSERC) *et al.* 2020, pp. 2–3, California Department of Fish and Wildlife (CDFW) 2020, p. 4), and 3 have been identified south of Yosemite in the general area of Mono Creek (CDFW 2020, p. 3). All detections, including new detections mentioned in comments to the proposed rule, have been within the approximate current range (Figure 1). Population density north of Yosemite is estimated at approximately 4 foxes per 100 sq km (square kilometers) (about 1 fox per 10 sq mi (square miles)) (Sacks and Quinn 2020, p. 1).

The average lifespan, age-specific mortality rates, sex ratios, and demographic structure of the Sierra Nevada DPS are not known, and are not easily extrapolated from other red fox subspecies because heavy hunting and trapping pressure on those other subspecies likely skew the results (Perrine *et al.* 2010, p. 18). However, three individual Sierra Nevada red fox within the Southern Cascades population (in the Lassen area) lived at least 5.5 years (CDFW 2015, p. 2), and a study of the Sierra Nevada DPS (in the Sonora Pass area) found the average annual adult survival rate to be about 70 percent, which is relatively high for red foxes (Sacks and Quinn 2020, p. 2).

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an ''endangered species'' or a ''threatened species.'' The Act defines an endangered species as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a threatened species as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following factors:

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

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

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

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

Analytical Framework

The SSA report documents the results of our comprehensive biological status review for the DPS, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be listed as an endangered or threatened species

under the Act. It does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R8–ES–2019–0006 on *http://www.regulations.gov* and on the Sacramento Fish and Wildlife Office's website at *https://www.fws.gov/sacramento/.*

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

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

Summary of Biological Status and Threats

The summary below of our analyses represents an evaluation of the biological status of the DPS, based upon our assessment of the effects anticipated from each of the identified threats. We also consider the cumulative impact of all effects anticipated from the identified threats, and how that cumulative impact may affect the Sierra Nevada DPS's continued existence currently and in the future. We used the best available scientific and commercial information, and the expert opinions of the analysis team members. The threats identified as having the greatest potential to act upon the DPS include: (1) Deleterious impacts associated with small population size, such as inbreeding depression and increased effects of deleterious stochastic events (Factor E); (2) over-hybridization with nonnative red fox (Factor E); and possibly (3) competition with coyotes (Factor E) resulting from reduced snowpack levels. We also evaluated the existing regulatory mechanisms (Factor D) and implementation of conservation efforts.

The environmental characteristics that are most important for Sierra Nevada DPS population resiliency include cold subalpine habitat with low primary productivity, high snowpack, and rodent and leporid prey (Service 2018, pp. 14–20). Additional demographic characteristics contributing to the species' redundancy and representation include (1) Either a single large or multiple populations, which would help insure that large portions of the DPS remain even after a catastrophic loss over a large area; (2) a population(s) situated to include habitat variations occurring from northern to southern portions of the range (rather than clustering in one general area); and (3) representative genetic diversity to avoid genetic swamping and loss of the species' adaptive native genes, which could result from continuing and overbroad levels of interbreeding with nonnative red fox subspecies.

The best available scientific and commercial information at this time indicates that the Sierra Nevada DPS population size needs to be larger to help ensure its viability into the future. The minimum population size necessary for the Sierra Nevada DPS to maintain viability is unknown, but that number has been estimated at about 150 individuals for the Santa Catalina Island fox (*Urocyon littoralis catalinae*) (Kohlmann *et al.* 2005, p. 77), which has a small range compared to suitable habitat available for the Sierra Nevada DPS. Lacking better data, we use this number as an example of what the minimum viable population size for the Sierra Nevada DPS could be. The current estimated population size of 18 to 39 individuals is well below that number, meaning that the population is likely vulnerable to stochastic disturbance (in addition to other threats discussed below).

When considering redundancy, there is currently only one small, isolated population of Sierra Nevada DPS known within the Sierra Nevada mountain range. In general, given the low number of foxes currently known within this DPS and the limited range they inhabit, the DPS appears to have a low ability to withstand catastrophic events should they occur. Additionally, there do not appear to be any other populations within the range of this DPS to serve as a source to recover from a catastrophic loss of individuals.

When considering the breadth of genetic and environmental diversity within and among populations (representation), the Sierra Nevada DPS historically occurred throughout the high elevations of the Sierra Nevada. The current, small population has been experiencing genetic challenges, including inbreeding depression, as well as hybridization with non-Sierra Nevada red fox individuals, which can potentially lower survivorship or reproductive success by interfering with adaptive native genes or gene complexes (Allendorf *et al.* 2001, p. 617; Frankham *et al.* 2002, pp. 386–388). Having broad genetic and environmental diversity would help the DPS withstand environmental changes. However, at this time, the Sierra Nevada DPS does not have this broad diversity.

Summary of Existing Regulatory Measures and Voluntary Conservation Efforts

Since 1998, the USFS have identified the Sierra Nevada DPS as a sensitive species where it occurs on National Forest lands. The current range of the DPS includes portions of the Stanislaus, El Dorado, Humboldt-Toiyabe, Inyo, and Sierra National Forests. Sensitive species receive special consideration during land use planning and activity implementation to ensure species viability and to preclude population declines (USFS 2005, section 2670.22). The USFS included Sierra Nevada red fox-specific protection measures in the *Sierra Nevada Forest Plan Amendment (SNFPA) Standards and Guidelines* given the extensive overlap of suitable and in some cases occupied habitat for the Sierra Nevada red fox with USFS lands. These specific protection measures require the USFS to conduct and analyze potential impacts of activities within 8 km (5 mi) of a verified Sierra Nevada red fox individual sighting (USFS 2004, p. 54). The protection measures also limit the time of year that certain activities may occur to avoid adverse impacts to Sierra

Nevada red fox breeding efforts, and require 2 years of evaluations following activities near sightings that are not associated with a den site (USFS 2004, p. 54).

The National Park Service management policies prohibit hunting, trapping, and snowmobiling in Yosemite and manage natural resources to ''preserve fundamental physical and biological processes, as well as individual species, features, and plant and animal communities'' (NPS 2006, p. 26). Land management plans for Yosemite and Sequoia National Parks (the latter of which is not known to currently harbor Sierra Nevada DPS foxes but are within the DPS's historical range) do not contain specific measures to protect the Sierra Nevada DPS individuals or habitat. However, areas not developed specifically for recreation and camping are managed toward natural processes and species composition, and the best available scientific and commercial information indicates that the National Park Service would maintain the DPS's habitat.

The Department of Defense recently completed an Integrated Natural Resources Management Plan (INRMP) for the U.S. Marine Corps Mountain Warfare Training Center (MWTC), which is a facility and training area that falls within the Sierra Nevada DPS's range, including overlap with some known sightings. The INRMP includes provisions prohibiting disturbance within 100.6 m (330 ft) of Sierra Nevada red fox den sites from March 1 to June 30 (MWTC 2018, p. 4–37). The INRMP also establishes food storage and trash clean-up provisions to prevent habituation (MWTC 2018, p. 4–38). A table in the INRMP incorrectly identifies the dates during which disturbance of den sites must be avoided as January 1 to June 30 (MWTC 2018, p. 3–26), but the MWTC's 2020 Annual Operating Plan supports the March 1 to June 30 dates (MWTC 2019, p. 24).

On October 2, 1980, the State of California listed the Sierra Nevada red fox as a threatened species. The designation prohibits possession, purchase, or ''take'' of threatened or endangered species without an incidental take permit, issued by the CDFW. Additionally, red foxes in general are protected by the State from hunting and trapping (14 C.C.R. 460).

A conservation effort currently is underway by the Sierra Nevada Red Fox Working Group. This working group was formed in 2015 by representatives of Federal and State wildlife agencies, State universities, and nongovernmental conservation organizations (Sierra Nevada Red Fox Working Group 2015, p. 1; 2016, p. 1). In addition to continued monitoring of the Sierra Nevada red fox across its range, including the Sierra Nevada DPS, the working group is currently developing a conservation strategy, which will include a genetics management plan. While the Sierra Nevada DPS population remains low, careful monitoring and genetics management will be key in identifying and responding appropriately to any downward trends in population numbers.

Risk Factors Affecting the Sierra Nevada DPS of Sierra Nevada Red Fox

Our SSA considered a variety of environmental and demographic characteristics important to the viability of the Sierra Nevada DPS, taking into consideration both current and potential future conditions that may impact the DPS. The environmental characteristics we considered were: (1) Extent of subalpine habitat, (2) deep winter snow cover, (3) and rodent and leporid (rabbit and hare) populations. Subalpine habitat is important because its lower primary productivity and short growing season leave it unable to support as many prey animals as typically occur at lower elevations (Verner and Purcell 1988, p. 2). This makes subalpine habitat more ''marginal'' for supporting mid-sized carnivores, such as coyotes and foxes. Red foxes tend to avoid competition with coyotes by relocating to marginal habitats that coyotes find less attractive (Cross 2015, p. 38). Several studies have found this tendency can result in elevational stratification, with red foxes relegated to the poorer habitat at higher elevations (Perrine 2005, p. 84).

The smaller size and furred feet of Sierra Nevada DPS foxes also improve their chances relative to coyotes at catching leporids running over deep snow (Grinnell *et al.* 1937, pp. 395–396; Perrine 2005, p. 81), and let them travel over snow more easily to reach productive hunting areas (Grinnell *et al.* 1937, p. 393; Fuhrmann 1998, p. 24; Perrine 2005, p. 81). Mule deer carrion (*Odocoileus hemionus*) is an important non-winter food source for both red foxes and coyotes at high elevations in and around Lassen Volcanic National Park, but deer in Lassen typically descend to lower elevations in winter, avoiding heavy snow (Perrine 2005, p. 30). Mule deer are also present in the range of the Sierra Nevada DPS, but a camera survey found none in the area during winter months (Sacks *et al.* 2015, p. 24). The low productivity and heavy snows of the Sierra Nevada DPS's high-elevation range therefore appear to discourage coyotes from occupying the area in winter to the same extent as at lower elevations, thereby leaving Sierra Nevada DPS foxes to occupy the area with less direct competition from coyotes (Sacks 2017, p. 2).

The remaining environmental characteristic, rodent and leporid population levels, is important to consider separately because prey population numbers can change for reasons unrelated to primary productivity or snowpack depth.

The demographic characteristics we considered important to the viability of the Sierra Nevada DPS include: (1) Genomic integrity (extent of hybridization or inbreeding depression), (2) population size, and (3) number of populations.

Risk factors affecting the environmental characteristics that the DPS relies on include changing climate-related conditions, such as primary production levels and snowpack, which can affect coyote presence (and thus competition with Sierra Nevada DPS individuals) in high-elevation areas; prey availability; and potential impacts of habituation to humans and human-provided food sources. Risk factors affecting the demographic characteristics include deleterious impacts associated with small population size, including inbreeding depression (as a consequence of population reduction and a lack of other populations) and reduced genomic integrity, and levels of hybridization with nonnative red foxes. Our evaluation of the best available scientific and commercial information indicates the Sierra Nevada DPS's resiliency is not significantly adversely affected by impacts specifically associated with its habitat. We presented several potential causal connections between habitat conditions and their importance to the Sierra Nevada DPS, as well as scenarios related to possible future trajectories of the risk factors that could affect those habitat conditions. As we analyzed these potentialities, we determined that the relative importance of potential causal connections was lower than presented in some scenarios, and that the most likely scenario of future conditions would exhibit a lower overall risk to the DPS's habitat. As such, we conclude that there are not any current or future significant habitat-based threats. The best available scientific and commercial information suggests that threats to the subspecies directly (as opposed to habitat) are of greatest concern. Below is a summary of the factors influencing the species viability, provided in detail in the SSA report (Service 2018) and

available on the internet at *www.regulations.gov,* Docket No. FWS–R8–ES–2019–0006.

Subalpine Habitat Suitability, Snowpack Levels, and Coyote Presence

Over the past 75 years, average annual temperatures in the Sierra National Forest (which overlaps the southwestern portion of the Sierra Nevada DPS's range) have increased by about 1.0 to 1.5 °C (Meyer *et al.* 2013, p. 2). In the Lake Tahoe region (northern Sierra Nevada mountain range in California), the average number of days per year for which the average temperature was below-freezing has decreased from 79 in 1910 to about 51 in 2010 (Kadir *et al.* 2013, p. 102). These increased average temperatures coupled with periodic drought conditions can result in changed habitat conditions in subalpine habitat. For example, direct measurements of primary productivity in a subalpine meadow in Yosemite have shown that mesic (medium wet) and hydric (wet) meadows both tend to increase productivity in response to warmer, drier conditions (Moore *et al.* 2013, p. 417). Xeric (dry) meadows tend to increase productivity due to warmth, but decrease due to drier conditions (Moore *et al.* 2013, p. 417). A comparison of tree biomass and age in subalpine forests now and about 75 years ago also points to increased productivity over time (Kadir *et al.* 2013, p. 152). Specifically, small trees with comparatively more branches increased by 62 percent, while larger trees decreased by 21 percent, resulting in younger, denser stands (Kadir *et al.* 2013, p. 152). This overall increase in biomass occurred consistently across the subalpine regions of the Sierra Nevada mountain range and across tree species. The primary cause was an increase in the length of the growing season (Kadir *et al.* 2013, p. 152).

A study of coyotes and montane red foxes in the Lassen area of California found that coyotes moved out of high elevation areas during the winter, possibly due to deep snow (Perrine 2005, p. 74). Red foxes also moved to somewhat lower elevations in winter, but tended to remain at higher elevations than coyotes (average 1,878 m (6,161 ft) versus average 1,690 m (5,545 ft) for coyotes) (Perrine 2005, p. 96). Studies in Alberta and Maine have also documented elevational separation of coyotes and red foxes (Perrine 2005, p. 84). A study of coyotes in Sonora Pass, however, where Sierra Nevada DPS foxes occur, found that coyotes outnumber DPS foxes during the summer in the high elevation areas most used by Sierra Nevada DPS foxes, and also found several coyotes that were occupying the high-elevation areas year-round (Quinn and Sacks 2014, p. 12; Quinn 2017, pp. 6–7). Areas unoccupied by coyotes may serve as refugia for red foxes (Perrine 2005, p. 84), so the coyotes occupying high elevation areas near Sonora Pass during the winter may be negatively impacting Sierra Nevada DPS foxes by restricting them from hunting areas or den sites, by the threat of direct predation on adult foxes or cubs, and by generally reducing the carrying capacity of the area available for the foxes (Quinn and Sacks 2018, p. 18). The extent of the impact is of course unclear, but given the current small estimated size of the Sierra Nevada DPS population, any death or reproductive failure resulting largely from coyote presence could affect the overall viability of the DPS as a whole.

In the central portion of the Sierra Nevada mountain range, average recent April 1 snowpack levels in Yosemite (which overlaps a portion of the known Sierra Nevada DPS sightings) have been just above 60 cm (23.6 in) (Curtis *et al.* 2014, p. 9). To date, all Sierra Nevada DPS individuals sighted within the park have been in the areas of highest snowpack (Eyes 2016, p. 2).

While snowpack conditions vary by year and location, the best available scientific and commercial information suggests that the areas where the Sierra Nevada DPS occurs have been maintaining high snowpack during winter and spring most years (see section 4.1 of the SSA report (Service 2018, pp. 22–23)). Therefore, the current condition of the snowpack depth appears adequate for the DPS's needs, except during drought years such as occurred in California and other western states from 2012 to 2017 (Kim and Lauder 2017, pp 2–45).

Prey Availability

Rodent population numbers in subalpine areas have likely increased due to an increase in primary productivity (Service 2018, pp. 21, 24). Despite several factors that may limit their availability (*e.g.,* increased presence of coyotes), the general landscape appears adequate for rodents.

Adequate leporid population numbers may be of concern given that both white-tailed jackrabbits and snowshoe hares are considered species of special concern across the Sierra Nevada by CDFW (CDFW 2017, p. 51), a designation meaning they are potentially vulnerable to extirpation in California (CDFW 2017, p. 10). Regardless of rangewide leporid abundance, the best available scientific and commercial information does not indicate that leporid abundance is inadequate in the vicinity of the majority of known Sierra Nevada DPS sighting locations (*i.e.,* Sonora Pass area); leporids appear currently to be relatively common and present all year in the Sonora Pass area (Rich 2014, p. 1).

Habituation

Based on new information received, habituation of Sierra Nevada DPS foxes to humans and human food sources may expose Sierra Nevada DPS fox individuals to harm or injury, such as from dog attacks, dog diseases, and vehicle collisions (Dunkelberger 2020, p. 2). Sierra Nevada red foxes in the Southern Cascades population have been exhibiting begging behavior at the Lassen Peak parking lot (Perrine 2005, p. 150). A female from that population was killed by a dog in 2002 after having previously exhibited begging behavior (Perrine 2005, p. 135). The death occurred less than 175 m (600 ft) from a ski chalet.

Other indicators of habituation have also been noted in the range of the Sierra Nevada DPS. The Humboldt-Toiyabe National Forest has several photographs of Sierra Nevada DPS foxes closely approaching hikers and snowmobilers, presumably in hopes of obtaining food (Dunkelberger 2020, p. 2). Hikers within the DPS's range have also posted photographs on social media showing themselves feeding Sierra Nevada DPS foxes. Although we have no reports of Sierra Nevada DPS foxes approaching soldiers at the MWTC, trash has occasionally been left after training exercises, and tracks from Sierra Nevada red foxes, as well as fox scat containing food wrappers have been found in these debris areas (Dunkelberger 2020, p. 2). The recently completed INRMP commits the MWTC to implement measures that prevent habituation of foxes, including an education program for military personnel on these measures (MWTC 2018, p. 3–67). As a result of these actions, we do not expect habituation on MWTC lands to significantly affect the population of the DPS. We have no information indicating loss of Sierra Nevada DPS foxes due to habituation. Overall, the best available information suggests that habituation of individual foxes may occur, but is expected to be restricted to a few individuals over time.

Deleterious Effects Associated With Small Populations

Sierra Nevada DPS population numbers are currently low (18 to 39 individuals spread across the Sonora Pass, northern Yosemite, and Mono

Creek areas) (Sacks and Quinn 2020, p. 1; CSERC *et al.* 2020, pp. 2–3, CDFW 2020, pp. 3–4) and appear to have been low for many years. Sightings fell considerably in the mid-1900s, for instance, as compared to trapping data reported by Grinnell *et al.* (1937, p. 389) (Schempf and White 1977, p. 44). The low numbers make this DPS more susceptible to deleterious stochastic events such as major fires or diseases. Loss of a few individuals due to stochastic events would mean the loss of a relatively large proportion of the small Sierra Nevada DPS population.

Additionally, the Sierra Nevada DPS's low population numbers make it vulnerable to inbreeding depression. Inbreeding depression is caused by the chance loss of beneficial gene variants (alleles) in small populations, leaving deleterious alleles as the only remaining variants of a given gene (Soulé 1980, pp. 157–158). It can result in lowered reproductive ability, congenital defects, and lowered disease resistance (Soulé 1980, pp. 157–158; Gilpin 1987, p. 132; O'Brien 2003, pp. 62–63). To avoid inbreeding depression, a population typically requires an ''effective'' population size of at least 100 reproducing adults (Frankham *et al.* 2014, p. 58). The ''effective size'' of a population is generally smaller than the actual size, and refers to the number of breeding individuals that would be necessary to produce the level of genetic diversity observed in the population if the members of the population interbred in a manner that was ideal for maximizing genetic diversity (Lande and Barrowclough 1987, pp. 88–89). So for instance, a population in which few individuals bred, and in which they chose mates from among their geographical neighbors, would have a smaller effective size than a population in which almost all adults bred and chose mates from among the entire population.

The Sierra Nevada DPS's actual population size of 18 to 39 individuals is already well below 100, but (based on samples taken from 2015 to 2017) its effective population size was only 6.1 prior to the immigration into the population of two nonnative males in 2012 (CDFW 2020, p. 3). Thus, the same level of genetic diversity could have been produced by only about six breeding individuals in an ''ideal'' population in which breeding practices maximized diversity. This means the Sierra Nevada DPS had likely been suffering from inbreeding depression prior to the arrival of two Great Basin foxes in 2012 (Sacks *et al.* 2015, pp. 3, 10, 29–30) (see Genomic Integrity, below). Additional support for this conclusion is provided by preliminary results of a study that estimated the inbreeding coefficient of a Sierra Nevada DPS fox that was born prior to the arrival of the Great Basin immigrants (Sacks and Quinn 2020, p. 2). The inbreeding coefficient was found to be above 0.4, which is at the high end of the range found in Isle Royal wolves, a population with demonstrated severe inbreeding depression (Sacks and Quinn 2020, p. 2).

These data indicate that lowered reproductive success from inbreeding depression may be primarily responsible for the complete lack of pup production documented in the Sonora Pass area from 2011 through 2017 by mated pairs of pure Sierra Nevada DPS foxes (Quinn *et al.* 2019, p. 571). It is thus likely to have constituted a limiting factor on population size in recent years (Sacks and Quinn 2020, p. 3). And while recent interbreeding with foxes from the Great Basin appears to have increased reproductive success, we have no information regarding the extent of other potential effects that are typically associated with inbreeding depression, such as congenital defects and lowered disease resistance, nor whether these potential effects may also have been alleviated. The population also remains small at present, and thus potentially susceptible to renewed impacts from inbreeding depression (Quinn *et al.* 2019, p. 573), or from deleterious chance events such as drought or fire. If inbreeding depression does return, the impacts would likely be worse due to the addition of new alleles from the Great Basin into the population (Quinn *et al.* 2019, p. 573).

Genomic Integrity

Prior to spring of 2013, no reproduction between native individuals of the Sierra Nevada DPS and nonnative immigrant red fox was known to have occurred (Sacks *et al.* 2015, p. 9; Sacks 2017, p. 4). However, two nonnative male red foxes with a mixture of Great Basin montane (*V.* v. *macroura*) and fur-farm ancestry arrived at the Sonora Pass area in 2012 (Sacks *et al.* 2015, pp. 3, 10, 29–30). By 2014, they had produced a total of 11 hybrid pups (Sacks *et al.* 2015, pp. 29–30), and by 2017, the hybrids had interbred and produced 13 additional pups (Quinn *et al.* 2019, p. 571). These 24 pups, all with a mixture of Sierra Nevada DPS and Great Basin montane fox ancestry, are the only pups known to have been produced in the population since 2011 (Quinn *et al.* 2019, p. 571; Sacks and Quinn 2020, p. 2). A third nonnative male was sighted (once) in 2014, and a fourth in 2017 (Sacks and Quinn 2020, p. 2), although we have no information to indicate whether either of these produced young.

While the hybrid pups assist in helping the Sierra Nevada DPS experience less inbreeding depression (as discussed above), there remains the possibility that so many immigrants might enter the population and produce young that the unique heritable characteristics of the Sierra Nevada DPS are lost (Sacks *et al.* 2015, pp. 17–18; Quinn *et al.* 2019, p. 573). This loss of genes representative of the diversity of the DPS would initially mean a loss of representation (*i.e.,* a diminished ability to adapt to long-term changes due to the lost genes). If such genetic replacement continued to the point where the DPS as a whole was facing replacement by nonnative foxes, then that would represent a loss of resiliency (*i.e.,* the inability of remaining members of the DPS in the population to recover from stochastic events). For instance, if the last remaining individuals considered members of the DPS were of an older generation because their pups were all too hybridized to qualify as Sierra Nevada DPS, then any stochastic event that eliminated the last of the older DPS individuals would also eliminate the DPS as a whole, despite the continuing existence of non-DPS foxes in the area.

The current demographic circumstances of the DPS as a single, small population is also likely to result in low representation, because unique adaptations and genetic variations that DPS members in other portions of the historical range may once have had are likely to be lost now that the DPS no longer includes those areas. The historical range (as sketched by Grinnell *et al.* (1937, p. 382)) stretched for roughly 460 km (285 mi) from the northern to the southern Sierra Nevada mountains. The estimated current range, at only about 188 km (117 mi) long, and about half as wide, only covers portions of the central Sierras. Examples of differing ecological characteristics across the historical range include a north to south pattern of decreasing annual precipitation, increasing temperatures for a given elevation, and increasing maximum elevations (Fites-Kaufman *et al.* 2007, p. 458). Vegetation differences also follow this gradient, with whitebark pine more dominant in the north, but limber pine (*Pinus flexilis*) becoming more prominent in the central Sierras and foxtail pine (*Pinus balfouriana*) in the south (Fites-Kaufman *et al.* 2007, 475).

Cumulative or Synergistic Effects

As discussed above, both rodent population numbers and the incidence

of droughts affecting snowpack levels have been affected by climate change in ways that have likely increased coyote numbers in the DPS's range. It is possible that a gradual increase in coyote numbers during the mid 1900's was one of the factors causing the DPS's numbers to drop. Whatever the cause, this drop in population size eventually led to inbreeding depression, which would have tended to lower the population size even more. The recent instances of hybridization with immigrant males from the Great Basin appears to have helped alleviate the most obvious reproductive impacts of inbreeding depression, but (as discussed above) risks from inbreeding depression and deleterious chance events remain so long as the population remains small.

Current Condition Summary

We considered several risk factors involving both environmental and demographic characteristics affecting the Sierra Nevada DPS. The available information does not show that any environmental risk factors are currently threatening the DPS's viability. Increased primary productivity in high elevation areas due to climate change may have increased coyote numbers in the fox's range, but we lack evidence of the extent of increase or of resulting impacts. Important prey species remain generally available, and we lack evidence of population-level impacts resulting from habituation.

Several demographic risk factors do appear to constitute current threats to the viability of the Sierra Nevada DPS. The DPS currently consists of a single known population of fewer than 50 individuals. This small size leaves the DPS susceptible to serious impacts from relatively common stochastic changes in the environment, such as drought or wildfire. The resiliency and redundancy of the DPS—its ability to survive and quickly rebound from both common stochastic changes and more serious catastrophes—is thus low. Since this one small population is the last representative of a DPS that was once much larger, the representation of the DPS is also threatened by the population's small size and susceptibility to extirpation.

The small size of the population has also led to inbreeding depression in the recent past, which in turn likely contributed to further contractions in size due to lowered reproductive success. Population size appears to have begun increasing again since the arrival and interbreeding of two nonnative male foxes in 2011, but it is too early to determine if previous impacts from inbreeding depression have been ameliorated. Additionally, renewed inbreeding depression remains a possibility so long as the population size remains low. Thus, inbreeding depression also constitutes an apparent threat to the resiliency, redundancy, and representation of the DPS.

Finally, the DPS is currently at risk of genetic swamping due to ongoing interbreeding with nonnative immigrant foxes. The extent of this risk cannot be precisely determined because it depends on currently unknown factors, such as the extent to which ongoing immigration and interbreeding will continue into the future.

Critical Habitat

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time a species is determined to be an endangered or threatened species. In the proposed rule (85 FR 862, January 8, 2020), we determined that designation of critical habitat was not prudent because the present or threatened destruction, modification, or curtailment of habitat or range is not a threat to the Sierra Nevada DPS, and habitat does not appear to be a limiting factor for the species.

Summary of Comments and Recommendations

In the proposed rule published on January 8, 2020 (85 FR 862), we requested that all interested parties submit written comments on the proposal by March 9, 2020. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Fresno Bee. We did not receive any requests for a public hearing. All substantive information received during the comment period has either been incorporated directly into this final determination or addressed below. We did not receive comments from Tribes.

Peer Reviewer Comments

In accordance with our joint policy on peer review published on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought peer review of the SSA report. We sent the SSA report to five independent peer reviewers and received two responses. The purpose of peer review is to ensure that our listing determinations are based on scientifically sound data, assumptions, and analyses. The peer reviewers have scientific expertise that included familiarity with the Sierra Nevada DPS and its habitat, biological needs, and threats.

We incorporated the peer reviewers' comments into the final SSA report (Service 2018, entire). The changes consisted of adjustments and additions regarding average litter size; certainty regarding the genetic basis of local adaptations; the importance of coyotes, leporids, and snowmobiles; the extent to which snowpack level may affect coyote presence; and the extent to which ongoing hybridization may constitute a potential benefit or threat. The peer reviewers' comments did not change our determination that this DPS meets the definition of an endangered species under the Act.

Federal Agency Comments

(1) Comment: The USFS requested that we work closely with the Sierra Nevada Red Fox Conservation Advisory Team, an informal recovery planning organization with representative members from numerous State and Federal agencies, universities, and environmental organizations. They noted that the Conservation Advisory Team is currently drafting a Conservation Strategy for the Sierra Nevada red fox subspecies, and asked us to update our Sierra Nevada red fox SSA report with new information from the Conservation Strategy.

Our Response: We participate as members of the Sierra Nevada Red Fox Conservation Advisory Team and will continue to work closely with them. We consider the SSA report a living document, and will update it as substantive new information becomes available and as funding permits. We will consider all such information as we proceed with recovery-related actions for the species.

(2) Comment: The USFS stated that our range map and habitat description do not reflect recent data made available by the Sierra Nevada Red Fox Working Group, and that the lower elevational limit for detections is 2,469 m (8,100 ft) rather than 2,743 m (9,000 ft). They also noted that the range map should show a higher resolution, and it should show elevation, spatial references, and landmarks.

Our Response: We recognize that the range map included in our proposed listing rule is not at a high resolution nor as finely detailed as the commenter would prefer, rather it is just intended to give the public an understanding of where the DPS generally occurs. Species

ranges are not hard and fast boundaries beyond which individuals cannot go, so range maps are our best attempt to capture where the species is likely to occur, based on available information. For the Sierra Nevada DPS, our range map was based both on detections known at this time and on Sierra Nevada DPS preferred habitat features identified by Cleve *et al.* (2011, entire). Our range map was not based on elevational contour lines; however, we note that the range map includes several areas below 2,469 m (8,100 ft), and so comports with the commenters point about Sierra Nevada red fox detections.

We have confirmed that all but three Sierra Nevada DPS detections are within the mapped range. The three foxes not within the mapped range were found within one fifth of a mile of State Highway 395 (Quinn *in litt.* 2020, unpublished data), and presumably reflect use of that highway as a dispersal corridor. Two of the three were scat detections (both from the same individual) near the highway in the town of Lee Vining, and the third was a road-killed individual on State Highway 395 just south of the junction with State Highway 108 (Quinn *in litt.* 2020, p. 1). These three detections were at elevations ranging from 2,074 to 2,152 m (6,805 to 7,059 ft) (Quinn *in litt.* 2020, unpublished data). A fourth detection below 2,469 m (8,100 ft) (specifically at 2,311 m (7,581 ft)) occurred in the valley of the West Walker River, just south of the MWTC and within the mapped range (Quinn *in litt.* 2020, unpublished data). All other detections were above 2,469 m (8,100 ft).

More detailed GIS mapping information is available from the Sacramento Fish and Wildlife Office on request. The range map is also available on the internet at *https://ecos.fws.gov/ecp.*

(3) Comment: The USFS noted that recent detections of Sierra Nevada DPS foxes near Dunderberg Peak and Virginia Lakes change the extent of the gap in detections mentioned in the proposed rule from 77.2 km (48 mi) to 19.3 km (12 mi).

Our Response: The detections are north of the gap, but we have removed discussion of the gap in order to avoid possible confusion regarding the estimated range (which does not have gaps) versus the location of Sierra Nevada DPS detections.

Comments From States

(4) Comment: The CDFW provided information on the Lassen population of Sierra Nevada red foxes, noting in particular that the population is highly inbred and so cannot be used for translocations to help solve genetic issues in the Sierra Nevada DPS until it recovers.

Our Response: Our listing analysis did not extend to the status of the Lassen population (see the 12-month finding (October 8, 2015, 80 FR 60990) regarding the range of the Southern Cascades DPS), but we will incorporate this information (and all other pertinent information received) into our recovery plan for the Sierra Nevada DPS.

Comments From Local Governments

(5) Comment: Two county boards of supervisors requested that, if the Sierra Nevada red fox is listed as endangered, we seek interagency coordination and public review prior to completing a recovery plan. One county board was concerned that a recovery plan would not allow important fuels reduction or forest health projects to proceed.

Our Response: While we explain further below that recovery plans are not intended, nor do they have the regulatory force, to disallow projects, we first note that fuels reduction or forest health actions typically take place below the elevational range of the Sierra Nevada DPS.

Recovery plans delineate reasonable actions that are determined necessary for the recovery and protection of listed species. Recovery plans do not obligate other parties to undertake (or refrain from undertaking) specific actions, and are not regulatory documents. When developing recovery plans, our process includes seeking public comment prior to finalizing them. We also coordinate with stakeholders and interested parties during the recovery planning process. We also participate in the Sierra Nevada Red Fox Working Group (discussed under *Summary of Existing Regulatory Measures and Voluntary Conservation Efforts,* above), which is an interagency organization.

(6) Comment: One county board of supervisors noted that snowmobile impacts in the Bridgeport Winter Recreation Area may be minimal due to lack of trail grooming, minimum snow depth requirements, date restrictions on use, and permit requirements for snowmobile users. These points were also raised by the USFS.

Our Response: We acknowledge the information provided indicates snowmobiling in the BWRA is unlikely to have population-level impacts on Sierra Nevada DPS foxes. We will consider any additional information that may come to light when writing the recovery plan for the species, and as otherwise necessary in consultation with Federal agencies.

(7) Comment: Two county boards of supervisors requested input into any restrictions on snowmobile operations that might result if the species is listed as endangered.

Our Response: The USFS will work with us in accordance with Act requirements (16 U.S.C. 1536(a)(2)) to ensure that their policies do not jeopardize the species. Any changes to current land management practices will involve public comment as required by applicable environmental laws.

(8) Comment: A county board of supervisors stated that there is not enough information regarding Sierra Nevada DPS viability to know whether listing would help the species thrive.

Our Response: The Act requires our listing determination to be based solely on whether the best scientific and commercial information indicates the species meets the definitions of an endangered or threatened species (see Determination section, below) (16 U.S.C. 1533(b)(1)(A); 50 CFR 424.11(b)). The purpose of listing is to provide the regulatory protections needed to prevent further decline on a trajectory toward extinction. Although the listing itself is not intended to ''help the species thrive,'' subsequent components of the Act (*e.g.,* recovery plans) may provide the necessary mechanisms for the species to thrive and recover.

(9) Comment: One county board of supervisors noted the large degree of variation that exists in our initial estimate of 10 to 50 adult Sierra Nevada DPS foxes in the population, and also noted the possibility of other undiscovered populations. The board stated that knowledge of population numbers is insufficiently precise to support listing.

Our Response: We have revised population estimates in this final rule to an estimate of 18 to 39 individuals based on additional information that has been made available through the public comment process (Sacks and Quinn 2020, p. 1; CSERC *et al.* 2020, pp. 2–3; CDFW 2020, pp. 3–4; See *Demographics,* above). This estimate includes the results of camera trapping and scat searches throughout the DPS's range. Additionally, as discussed under *Deleterious Effects Associated With Small Populations,* the Sierra Nevada DPS appears to have been subject to inbreeding effects in the recent past, which is consistent with known information on small population size effects (Quinn *et al.* 2019, pp. 559–560, 571; Sacks and Quinn 2020, p. 2). Therefore, the best available scientific and commercial information indicates that fewer than 50 individuals currently remain in the DPS. While the exact

number remains unknown, and is also subject to change with new births and deaths, it is well below population levels that would provide resiliency, redundancy, and representation to the population. We discuss this issue in greater depth above, under *Deleterious Effects Associated With Small Populations.*

(10) Comment: One county board of supervisors indicated concern that listing would interfere with activities such as hiking and snowmobiling. They asked for an analysis of potential economic impacts prior to listing, and requested an opportunity to review any economic analyses conducted.

Our Response: As described below in Determination, the Act requires us to determine whether a species is endangered or threatened ''solely on the basis of the best scientific and commercial data available'' (16 U.S.C. 1533(b)(1)(A); 50 CFR 424.11(b)). We are not allowed to consider economic impacts in our determination on whether to list a species under the Act. However, at this time we have no information to indicate that public hiking or snowmobile use in accordance with applicable regulations is impacting the Sierra Nevada DPS.

Public Comments

(11) Comment: One commenter noted that snowmobiles would be allowed in two near-natural roadless areas (Pacific Valley and Eagle) in the Stanislaus National Forest within the Sierra Nevada DPS's range if a proposed change to the Forest Plan is approved. The commenter indicated that compaction of snow by snowmobiles could increase ease of access to a given area for coyotes, which do not move over uncompacted snow as efficiently as Sierra Nevada DPS foxes. The commenters also stated that snow compaction may impact subnivean (under-snow) rodent populations by lowering the temperature and decreasing the oxygen content in the compacted area. The commenter stated that this is one of the few types of potential impacts to the Sierra Nevada DPS that government institutions have the power to prevent.

Our Response: The potential change to existing snowmobile restrictions in the areas mentioned is part of the best available scientific and commercial information we must consider for our listing determination (16 U.S.C. 1533(b)(1)(A)). The best available information does not suggest that snowmobiling and its potential to compact snow is a risk factor to the DPS, although we note that the resulting impacts associated with the proposal depend on several variables, including the likelihood that the proposed changes would be adopted, the number of snowmobiles allowed and Sierra Nevada DPS foxes in the two areas, and the extent of resulting snow compactions. This, at this time, the best available information does not suggest that this proposed regulatory change constitutes a threat to the population. However, because we are listing the Sierra Nevada DPS as an endangered species based on other information (see Risk Factors Affecting the Sierra Nevada DPS of Sierra Nevada Red Fox, above), we anticipate consulting with the USFS under section 7 of the Act to minimize effects should that agency change snowmobile regulations, thus insuring the continued existence of the species is not jeopardized (as required by the Act under 16 U.S.C. 1636(a)(2)).

(12) Comment: One commenter stated that poachers take more Sierra Nevada DPS foxes than recorded, and also indicated that Wildlife Services personnel (wildlife pest and predator removers from the Animal and Plant Health Inspection Service) impact the species. Another commenter stated that indiscriminate use of m–44 cyanide anti-predator devices threatens the Sierra Nevada DPS. No further information was provided by either commenter regarding these statements.

Our Response: Our review of the best available scientific and commercial information does not indicate these sources are a threat to the DPS. If the commenters, or other interested parties, have additional information that might indicate otherwise, we would appreciate receiving it.

(13) Comment: One commenter asked us to work with other agencies to recover the Sierra Nevada DPS and restore its role in the ecosystem. The commenter also suggested we seek additional information regarding why the Sierra Nevada DPS appears to have such low population numbers.

Our Response: We are working with State and Federal agencies, academics, environmental groups, and other interested parties as part of the Sierra Nevada Red Fox Working Group to develop a conservation strategy and recovery plan. We also will consult with Federal agencies under section 7 of the Act to avoid actions that jeopardize the species, and will work with non-Federal agencies and individuals who wish to initiate recovery actions or habitat management plans in accordance with section 10 of the Act.

Regarding reasons for the current small size of the population, new information submitted by commenters, based on research supported in part by us, shows that the population was likely inbred prior to the arrival of immigrants from the Great Basin (see *Deleterious Effects Associated With Small Populations,* above). Inbreeding depression may therefore be the primary reason the population has been so small recently. It remains unclear, however, when and why the population became so low that inbreeding depression became an issue.

(14) Comment: One commenter stated that the Sierra Nevada DPS is threatened by logging and farming of livestock and fish. The commenter also stated that Sierra Nevada DPS numbers had diminished to as low as 10 to 15 in the 1990s, and that no action was taken at that time.

Our Response: In our 12-month finding published on October 8, 2015 (80 FR 60990), we investigated logging, livestock grazing, and fish stocking as potential threats to Sierra Nevada red fox in both the Sierra Nevada and Southern Cascades DPSs. The best available scientific and commercial information indicates that these activities have more potential for negative impacts to the Southern Cascades DPS, as foxes in the Sierra Nevada DPS typically occur at elevations above those used for grazing or logging. Additionally, as discussed in our 12-month finding (80 FR 60990), fish stocking might affect foxes in the Southern Cascades DPS because the stocked fish can potentially transmit a parasite deadly to canines that eat them; the parasite has not been found within the range of the Sierra Nevada DPS.

The best available information does not include the population size of the Sierra Nevada DPS in the 1990s. This population was rediscovered by scientists in 2010 (Statham *et al.* 2012, p. 122), and a rough population estimate (of 14 to 50 adults) was not available until 2015 (Sacks *et al.* 2015, p. 14).

(15) Comment: One commenter mentioned that according to an Oregon Department of Fish and Wildlife website (*i.e., https://www.oregonconservationstrategy.org/strategy-species/sierra-nevada-red-fox/*), fires are a potential threat to the species, while actions that promote recruitment and maintenance of high-elevation conifer forests are beneficial. The commenter also mentioned that radio-collaring foxes to learn more about them would be beneficial.

Our Response: The Oregon website information is specific to the Southern Cascades DPS, as opposed to the Sierra Nevada DPS that is addressed in this rule. We agree that available information on the Southern Cascades DPS may be helpful to consider when

we develop a recovery plan. For example, we agree that radio-collaring can provide important information, and at least one fox in the Sierra Nevada DPS has been radio-collared since publication of our proposed listing rule (Stock and Eyes 2017, p. 21). We will take this and other information into consideration when we coordinate with partners and species experts, including the Sierra Nevada Working Group, to develop a conservation strategy for the entire subspecies and a recovery plan for the Sierra Nevada DPS.

(16) Comment: One commenter indicated concern regarding the impact of listing the Sierra Nevada DPS on Federal timber sales conducted for fire management.

Our Response: We do not expect listing the Sierra Nevada red fox to have a significant impact on Federal timber sales conducted for fire management because most such sales are outside the range of the DPS. Most of that range is designated wilderness, where logging is not permitted. Most is also in alpine and subalpine habitats, where the scattered tree stands, thin soils, and small amounts of litter accumulation produce a relatively low fire risk (Fites-Kaufman *et al.* 2007, p. 475). In contrast, most Federal and state fuels reduction efforts are conducted at lower elevations closer to urban areas (van Wagtendonk *et al.* 2018, p. 271). Finally, any fuel reduction projects that do occur in the range of the DPS are likely to take place during summer months, after most of the snow has melted, and are thus less likely to impact springtime denning and pup raising. For any timber sales within the range of the Sierra Nevada DPS, we will coordinate with the Federal action agency through section 7 consultations to ensure projects minimize effects to the species while meeting fuels reduction goals.

(17) Comment: One commenter stated that existing regulatory mechanisms, including hunting and trapping restrictions and USFS sensitive species status, are adequate to protect the Sierra Nevada DPS.

Our Response: The Sierra Nevada DPS faces several threats that existing regulatory mechanisms are unlikely to adequately address, including inbreeding depression, loss of genetic distinctiveness through hybridization, impacts of deleterious events to small populations, and competition with coyotes. Existing regulatory mechanisms include:

- Identification of the Sierra Nevada red fox (including the Sierra Nevada DPS) as a sensitive species by the USFS;
- Inclusion of Sierra Nevada red fox protection measures in the Standards and Guidelines for the Sierra Nevada Forest Plan Amendment;
- Prohibition of hunting and trapping in Yosemite;
- Management of Yosemite and other national parks to ''preserve fundamental physical and biological processes, as well as individual species, features, and plant and animal communities'' (NPS 2006, p. 26);
- Completion of an INRMP for the MWTC, with provisions to minimize disturbance or habituation of Sierra Nevada DPS foxes;
- Listing of the Sierra Nevada red fox as a threatened species under the California Endangered Species Act, which prohibits ''take'' of protected species; and
- Protection of red foxes throughout California from hunting and trapping (14 C.C.R. 460).

Many of these protections have been in place for decades throughout California, but the Sierra Nevada DPS has nevertheless experienced low population numbers, currently estimated at 18 to 39 individuals (see *Demographics,* above).

Determination of Sierra Nevada DPS Status

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

Status Throughout All of Its Range

The Sierra Nevada DPS faces the following threats: Deleterious impacts associated with small population size (including inbreeding depression and increased susceptibility to deleterious stochastic events) (Factor E), genetic swamping due to over-hybridization with nonnative red fox (Factor E). Existing regulatory mechanisms and conservation efforts do not address the threats to the Sierra Nevada DPS to the extent that listing the DPS is not warranted.

After evaluating these threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, and consideration of comments and new information received (including updated population estimate information), we continue to determine that the Sierra Nevada DPS of the Sierra Nevada red fox is presently in danger of extinction throughout its range, and that endangered status is therefore appropriate. The threats discussed above, particularly threats associated with small population size, leave the DPS in danger of extinction throughout all of its range at the present time rather than likely to become endangered in the foreseeable future. The DPS thus meets the definition of an endangered species rather than a threatened species.

The DPS is likely to face additional potential threats in the future. Climate projections indicate a continuing loss of snowpack depth (Curtis *et al.* 2014, p. 9) and of the general subalpine habitat to which the Sierra Nevada DPS has adapted (Lenihan *et al.* 2008, pp. S 219, S 221). This will likely lead to increased numbers of coyotes in high-elevation areas, and to increased competition between coyotes and Sierra Nevada DPS foxes. White-tailed jackrabbit populations, an important food source, appear to be declining (Simes *et al.* 2015. p. 506), and, if the trend continues, the resiliency of the Sierra Nevada DPS is likely to suffer. Numbers of both white-tailed jackrabbit and snowshoe hare also tend to fluctuate (Simes *et al.* 2015, pp. 493, 505), which would tend to exacerbate the negative effects of deleterious chance events if those events coincide with periods of prey scarcity. As discussed above, recent interbreeding with immigrants from the Great Basin has helped alleviate low pup production that had resulted from inbreeding depression. However, the population remains small so renewed inbreeding depression remains a threat, as does the increased susceptibility of small populations to deleterious stochastic events.

Our analysis of the DPS's current and future environmental and demographic conditions, as well as consideration of existing regulatory mechanisms and continued coordination with partners on conservation efforts (as discussed under Available Conservation Measures, below), show that the factors used to determine the resiliency, representation,

and redundancy for the Sierra Nevada DPS will likely continue to decline. Thus, after assessing the best available scientific and commercial information, we determine that the Sierra Nevada DPS of the Sierra Nevada red fox is in danger of extinction throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Sierra Nevada DPS of Sierra Nevada red fox is in danger of extinction throughout all of its range, and accordingly, did not undertake an analysis of any significant portions of its range. Because we have determined that this DPS warrants listing as endangered throughout all of its range, our determination is consistent with the decision in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020), in which the court vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014) that provided the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Sierra Nevada DPS of Sierra Nevada red fox meets the definition of an endangered species. Therefore, we are listing this DPS as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

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

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*), or from our Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

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

Following publication of this final rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of California (and Nevada if surveys indicate the species occurs there) will be eligible for Federal funds to implement management actions that promote the protection or recovery of the DPS. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Sierra Nevada DPS of Sierra Nevada red fox. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

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

Federal agency actions within the species' habitat that may require consultation as described in the preceding paragraph include: Issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; construction and maintenance of roads or highways by the Federal Highway Administration; and management actions or activities taken by the NPS, USFS, or Department of Defense that occur in the high elevation habitat of the DPS and that may affect individual DPS foxes.

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

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

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Normal agricultural and silvicultural practices, including pesticide use;

(2) Vehicular travel within the range; and

(3) Hiking and backpacking.

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

Activities that the Service believes could potentially harm the Sierra Nevada DPS individuals and result in ''take'' include, but are not limited to:

(1) Unauthorized pursuit, capture, or injury of members of the species;

(2) Unauthorized destruction or modification of den sites;

(3) Unauthorized feeding of members of the species, or unauthorized food disposal within the species' range, in a manner likely to cause habituation;

(4) Rodenticide applications within the species' range in violation of label restrictions;

(5) Activities that, due to negligence or intent, cause wildfire within the species' range; and

(6) Unauthorized importation into the species' range of nonnative foxes or coyotes.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

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

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

In development of the SSA, the proposed and final listing rules, and recent efforts in developing a conservation strategy for the species, we coordinated with Tribes by sending them notification letters. The Tribes we coordinated with were those with lands in the general area of the DPS (noting that no Tribal lands actually occur within the range of the DPS). We did not receive comments from Tribes. We will continue to consult on a government-to-government basis with Tribes as necessary.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *http://www.regulations.gov* and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Fish and Wildlife Service's Species Assessment Team, and the Sacramento and Reno Fish and Wildlife Offices.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11 in paragraph (h) by adding an entry for ''Fox, Sierra Nevada red [Sierra Nevada DPS]'' to the List of Endangered and Threatened Wildlife in alphabetical order under Mammals to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
		Mammals		
*	* *	*	*	* * *
Fox, Sierra Nevada red [Sierra Nevada DPS].	*Vulpes vulpes necator*	U.S.A. (CA)—Sierra Nevada.	E	86 FR [Insert **Federal Register** page where the document begins], 8/3/2021.
*	* *	*	*	* * *

* * * * *

Martha Williams,

Principal Deputy Director Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–16249 Filed 8–2–21; 8:45 am]

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Proposed Rules

Federal Register
Vol. 86, No. 146
Tuesday, August 3, 2021

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–TP–0024]

RIN 1904–AE01

Energy Conservation Program: Test Procedure for Microwave Ovens

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

ACTION: Supplemental notice of proposed rulemaking and request for comment.

SUMMARY: On November 14, 2019, the U.S. Department of Energy (''DOE'') published a notice of proposed rulemaking (''NOPR'') for the test procedure for microwave ovens. Following receipt of comments, DOE is publishing this supplemental notice of proposed rulemaking (''SNOPR'') for the limited purpose of clarifying the current procedure for testing a microwave oven that has a connected (*i.e.,* network) function, which is generally to disable the connected function when measuring standby mode power consumption. Further, DOE proposes to explicitly specify in its test procedure that standby power be measured with the connected function enabled if the means for disabling the network function are not provided in the manufacturer's user manual. DOE is seeking comment from interested parties on the proposal.

DATES: DOE will accept comments, data, and information regarding this proposal no later than September 2, 2021. See section V, ''Public Participation,'' for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0024, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *MWO2017TP0024@ee.doe.gov.* Include docket number EERE–2017–BT–TP–0024 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket?D=EERE-2017-BT-TP-0024.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email *MWO2017TP0024@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. Email: *Celia.Sher@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Authority and Background

''Kitchen ranges and ovens,'' which include microwave ovens, are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(10)) DOE's energy conservation standard for microwave ovens is currently prescribed at title 10 of the Code of Federal Regulations (''CFR'') part 430 section 430.32(j). Currently, the energy conservation

standard for microwave ovens addresses standby mode and off mode power use only. DOE's test procedures for microwave ovens are prescribed at 10 CFR 430.23(i) and appendix I to subpart B of 10 CFR part 430 (''Appendix I''). The following sections discuss DOE's authority to establish test procedures for microwave ovens and relevant background information regarding DOE's consideration of test procedures for this product.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include microwave ovens, the subject of this document. (42 U.S.C. 6292(a)(10))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby mode and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [3] and IEC Standard 62087 [4] as applicable. (42 U.S.C. 6295(gg)(2)(A))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including microwave ovens, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days.[5] In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this SNOPR in accordance with the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Background

On November 14, 2019, DOE published a NOPR (''November 2019 NOPR'') that, in part, proposed to amend the standby mode test procedure of microwave ovens to explicitly provide that microwave ovens with connected functions (*e.g.,* microwave ovens that use Bluetooth® technology, Wi-Fi, or internet connections) are to be tested with network functions disabled. 84 FR 61836, 61843. DOE further proposed that if the connected function cannot be disabled per manufacturer's instructions in the owner's manual (*e.g.,* by pressing a button on the microwave oven's control panel), the energy use of such connected function need not be

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

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[4] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

[5] DOE has historically provided a 75-day comment period for test procedure NOPRs pursuant to the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, on July 1, 2020, the Agreement between the United States of America, the United Mexican States, and the United Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11 (*i.e.,* the successor to NAFTA), went into effect, and Congress's action in replacing NAFTA through the USMCA Implementation Act, 19 U.S.C. 4501 *et seq.* (2020), implies the repeal of E.O. 12889 and its 75-day comment period requirement for technical regulations. Thus, the controlling laws are EPCA and the USMCA Implementation Act. Consistent with EPCA's public comment period requirements for consumer products, the USMCA only requires a minimum comment period of 60 days. In the present case, DOE initially provided 60 days for comment on the proposed rulemaking. 84 FR 61835 (Nov. 11, 2019). DOE is providing an additional 30-day comment period for the supplemental proposal presented in this document.

reported to DOE nor used in determining compliance with the applicable energy conservation standard. *Id.* Aside from an alternative approach of generally subtracting the energy use of the network functions from the standby mode energy measurement, DOE did not propose a specific test method or calculation for disaggregating energy use from a connected function from standby energy use in those instances in which the connected function cannot be disabled per manufacturer's instructions. DOE held a public meeting via a webinar to present the proposed amendments and provide stakeholders an opportunity to comment.[6]

DOE received comments in response to the November 2019 NOPR from the interested parties listed in Table I.1.

TABLE I.1—WRITTEN COMMENTS RECEIVED IN RESPONSE TO NOVEMBER 2019 NOPR

Organization(s)	Reference in this SNOPR	Organization type
Association of Home Appliance Manufacturers	AHAM	Trade Association.
California Investor Owned Utilities (Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison).	CA IOUs	Utility Association.
Natural Resources Defense Council, Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, National Consumer Law Center, Consumer Federation of America, Northwest Energy Efficiency Alliance.	Joint Commenters	Efficiency Organizations.
Whirlpool Corporation	Whirlpool	Manufacturer.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[7] This SNOPR addresses only those comments relevant to the proposals laid out in this document; all other relevant comments will be addressed in a future test procedure final rule for microwave ovens.

II. Synopsis of the Notice of Proposed Rulemaking

In this SNOPR, DOE revises its November 2019 NOPR proposal for testing microwave ovens with a connected function and specifies explicitly that if the manufacturer's user manual does not provide a means for disabling the network function, the microwave oven is tested with the network function in the factory default setting or in the as-shipped condition.

DOE has tentatively determined that this approach to testing microwave ovens with a connected function would not impact the measured standby energy use of a microwave oven nor impact the cost of testing. Discussion of DOE's proposed actions are addressed in detail in section III of this SNOPR.

III. Discussion

A. Connected Functions

As stated, the energy conservation standard for microwave ovens at 10 CFR 430.23(i) and the test procedure at Appendix I address standby mode and off mode energy use only. In establishing the standby energy test procedures for dishwashers, dehumidifiers, and conventional cooking products, DOE explicitly stated that it was not including the energy use associated with a connected function based on the lack of data on their functionality, but that DOE may consider addressing such energy use as data becomes available. 77 FR 65942, 65954 (Oct. 31, 2012). DOE's most recent test procedure for microwave ovens did not address network functionality. 81 FR 91418 (Dec. 16, 2016).

Section 2.1.3 of Appendix I generally specifies that a microwave oven must be installed in accordance with paragraph 5.2 of IEC Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0, 2011–01 (IEC Standard 62301 (Second Edition)), which states that the product must be prepared and setup in accordance with manufacturer's instructions, and if no instructions for use are available, then factory or default settings must be used, or if such settings are not indicated, the product must be tested as supplied. DOE recognizes that there may be some confusion as to how the direction in section 2.1.3 applies to connected functions. In order to minimize potential confusion, DOE proposed to include explicit instruction in Appendix I to disable a connected function, if present. 84 FR 61836, 61843.

AHAM and Whirlpool expressed support for disabling connected features during testing. (AHAM, No. 15 at p. 4; Whirlpool, No. 16 at p. 1) AHAM stated that connected functionalities, consumers' usage, and understanding of such features are still developing, and that regulating such features could stifle innovation, increase regulatory burden, and prevent manufacturers from including them. (AHAM, No. 15 at p. 4) AHAM further commented that connected features can add energy saving benefits to consumers, increase energy efficiency of the grid, help utilities increase demand response, and facilitate renewable energy sources; however, because connected products are still in early stages of development with limited market penetration, no meaningful data on consumer use is available yet. (AHAM, No. 15 at p. 4)

CA IOUs disagreed with excluding the energy use from connected functions, stating that connected functions could qualify under EPCA's definition of standby mode by remotely facilitating the activation or deactivation of functions, including active mode. (CA IOUs, No. 14 at p. 1) CA IOUs further suggested that DOE consider California Energy Commission's (''CEC's'') low power mode data collection requirements, as well as low power requirements by the European Union (''EU'') and other jurisdictions, when investigating how to regulate connected functions' power consumption. (CA IOUs, No. 14 at p. 2)

The Joint Commenters opposed excluding the energy use from connected functions, stating that this approach would deny consumers accurate information about microwave ovens' energy usage. (Joint Commenters, No. 13 at p. 3) The Joint Commenters stated that a growing number of connected features are being added to products, and that their energy consumption can vary widely. The Joint Commenters cited Natural Resources Defense Council research data showing a wide variation in the standby mode energy consumption of connected functions on televisions, ranging from 1 watt (''W'') on some models to 20 W on others. (Joint Commenters, No. 13 at pp.

[6] The transcript of the public meeting is available at *www.regulations.gov/document?D=EERE-2017-BT-TP-0024-0011.*

[7] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking for the test procedure for microwave ovens. (Docket No. EERE–2017–BT–TP–0024, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

3–4) The Joint Commenters further asserted that DOE's exclusion of energy use from connected features in the test procedure harms consumers and manufacturers that implemented these features efficiently. (Joint Commenters, No. 13 at p. 4) The Joint Commenters urged DOE to undertake its own investigation of the energy use of connected features. (Joint Commenters, No. 13 at p. 4)

DOE is aware of microwave ovens on the market with connected functionality to communicate with other cooking products, such as a range, or with a consumer, either via voice commands or a smartphone or other device. Such a feature could consume additional energy use, depending on how it is implemented in the product's controls. However, DOE lacks sufficient data to design a test procedure that measures the energy use associated with a connected function that is representative of average use, as required by EPCA. (*See* 42 US.C. 6293(b)(3)) As stated in the November 2019 NOPR, for a unit that is connected to the internet, the speed and configuration of an internet connection could also impact the energy consumed by the device. 84 FR 61836, 61843. Based on a review of manufacturer websites and user manuals of various appliances, as well as testing conducted in-house and at third-party laboratories, connected features in microwave ovens are also implemented in a variety of ways across different brands similar to the Joint Commentators findings with regards to the implementation of standby mode in televisions. *Id.* Further, the design and operation of these features is continuously evolving as the nascent market begins to grow for these products. *Id.*

In addition, DOE notes that the CEC's low power mode open rulemaking [8] is still in an early development stage, during which CEC is actively seeking stakeholder feedback. CEC's stated goal for the low power mode open rulemaking is to develop a test procedure for low power mode energy consumption across a wide variety of products.

DOE notes that CEC's draft test procedure does not measure the energy consumption of the individual network components of connected devices. Similarly, the EU's regulation on low power modes [9] also does not address how to individually measure the energy consumption of the network components of connected devices; rather, it requires measuring the device energy consumption as a whole and provides a 0.5 W maximum power allowance for standby mode and off mode, or 1.0 W maximum standby power for units with a display. The EU's regulation also provides design requirements for networked standby mode, requiring connected devices to automatically switch to a networked standby mode when not in use.

DOE is not aware of any data available, nor did interested parties provide any such data, regarding the consumer use of connected features. Absent such data, DOE is unable to establish a representative test configuration for assessing the energy consumption of connected functionality for microwave ovens. Therefore, DOE is proposing explicit language to require a connected function be disabled, where possible.

DOE requests information and data on the consumer use of connected functions.

In the November 2019 NOPR, DOE proposed a test procedure provision to address instances in which a user manual does not provide for disabling a connected function. 84 FR 61836, 61843. DOE proposed that in such an instance, the energy use associated with a connection function need not be reported to DOE nor used in determining compliance with the applicable energy conservation standard. *Id.* DOE recognized that alternative approaches could be considered to address the issue of microwave ovens that do not provide a means for disabling connected functionality and suggested that one such approach could be to require the energy use of the network function to be measured and subtracted from the standby mode energy measurement. *Id.* However, DOE did not propose a specific method for determining the energy associated with a connected function so that it could be disaggregated from the measured standby energy use.

In certain microwave oven models, the circuitry that enables connected functions can be tightly integrated into the circuitry that provides core functionality. In these conditions, disabling connected functions would require extensive reconfiguration of a microwave oven's circuitry. For such a model, with no means for the consumer to disable the connected functions, a test procedure that is ''reasonably designed to produce test results which measure [the] energy use'' of that model ''during a representative average use cycle or period of use'' would include the energy used by the connected functions. The same would be true of any energy-consuming function that a manufacturer might add to a model without allowing it to be disabled.

Therefore, DOE is proposing to explicitly state in Appendix I that if manufacturer instructions provided in a microwave oven's user manual do not provide for disabling a connected function, the standby power test procedure is conducted with the connected function in the ''as-shipped'' condition.

To the extent that manufacturer instructions do not provide for disabling a connected function, this proposal is consistent with the current test procedure in Appendix I. Section 2.1.1 of Appendix I specifies that a microwave oven must be installed in accordance with paragraph 5.2 of IEC 62301 (Second Edition), which states that the product must be prepared and setup in accordance with manufacturer's instructions; and if no instructions are available, then the unit must be tested using factory or default settings, or, in case such settings are not indicated, the product must be tested as supplied.

DOE requests comment on the proposed requirements for testing microwave ovens with network function in the ''as-shipped'' condition if the manufacturer instructions do not provide for disabling such function.

DOE is maintaining its proposal from the November 2019 NOPR regarding the standby power provisions related to microwave oven clock display and will address this proposal in a future test procedure final rule. 84 FR 61836, 61841–61842.

B. Compliance Date

EPCA prescribes that, if DOE amends a test procedure, all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) DOE proposes to add an introductory note to Appendix I specifying that prior to the date 180 days after publication of a final rule, representations with respect to the energy use or efficiency of a microwave oven, including compliance certifications, must be based on testing conducted in accordance with either the

[8] Available at *https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=17-AAER-12.*

[9] Available at *https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/energy-label-and-ecodesign/energy-efficient-products/mode-standby-and-networked-standby_en.*

test procedure as amended by the final rule, or Appendix I as it appeared as of January 1, 2021. Beginning on the date 180 days after publication of a final rule, representations with respect to energy use or efficiency of a microwave oven, including compliance certifications, would be required to be based on testing conducted in accordance with the test procedure as amended by the final rule.

If DOE were to publish an amended test procedure, EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. *Id.*

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this proposed test procedure rulemaking does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *https://energy.gov/gc/office-general-counsel.*

DOE reviewed this proposal to amend the test procedures for microwave ovens under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth in the following paragraphs.

DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the North American Industry Classification System (''NAICS'') and are available at *www.sba.gov/document/support-table-size-standards.* The SBA considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. The NAICS code for microwave ovens is 335220, major household appliance manufacturing. The threshold number for NAICS code 335220 is 1,500 employees. This employee threshold includes all employees in a business's parent company and any other subsidiaries.

Most of the manufacturers supplying microwave ovens are either large multinational corporations or overseas microwave oven original equipment manufacturers (''OEMs'') that manufacture microwave ovens sold under another company's brand. DOE conducted a focused inquiry into small business manufacturers of products covered by this rulemaking. DOE primarily used DOE's Compliance Certification Database for microwave ovens to create a list of companies that sell microwave ovens covered by this rulemaking in the United States. DOE also used the California Energy Commission's database, Modernized Appliance Efficiency Database System, to correlate brands with OEMs. DOE identified a total of 48 distinct companies that manufacture or import microwave ovens in the United States.

DOE then reviewed these companies to determine whether the entities met the SBA's definition of ''small business'' and screened out any companies that do not manufacture products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign-owned and operated. Based on this review, DOE identified one potential small business that manufactures microwave ovens in the United States.

The amendments proposed in this SNOPR would provide more explicit direction for the testing of microwave ovens with a connected function. The test procedure amendments proposed in this SNOPR are consistent with the current test procedure in Appendix I and do not affect the small business manufacturer because it does not make microwave ovens with network functions.

Therefore, DOE initially concludes that the impacts of the proposed test procedure amendments proposed in this SNOPR would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of microwave ovens must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including microwave ovens. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The proposal in this SNOPR would not amend the existing reporting requirements or establish new reporting requirements for manufacturers of microwave ovens.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part

1021). DOE's regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, Appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May

22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of microwave ovens is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

DOE is not proposing any new incorporations by reference of commercial standards in this SNOPR. The proposed modifications to the test procedure for microwave ovens in this SNOPR do not incorporate any new commercial standard.

M. Description of Materials Incorporated by Reference

The proposal in this SNOPR would maintain the previously approved incorporation by reference of IEC Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0, 2011–01 (IEC Standard 62301 (Second Edition)). The incorporation by reference of IEC 62301 (Second Edition) in appendix I to subpart B of 10 CFR part 430 has already been approved by the Director of the Federal Register and there are no proposed changes to the incorporation by reference in this SNOPR.

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI''). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE

will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this supplemental notice of proposed rulemaking.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on July 22, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 23, 2021.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. Appendix I to subpart B of part 430 is amended by:

■ a. Adding an introductory note; and

■ b. Revising section 2.1.1;

The addition and revision read as follows:

Appendix I to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Cooking Products

Note: Prior to [Date 180 days after publication of a final rule], representations with respect to the energy use or efficiency of a microwave oven, including compliance certifications, must be based on testing conducted in accordance with either this appendix as it now appears or appendix I as it appeared at 10 CFR part 430, subpart B revised as of January 1, 2021. Beginning on [Date 180 days after publication of a final rule] representations with respect to energy use or efficiency of a microwave oven, including compliance certifications, must be based on testing conducted in accordance with this appendix.

* * * * *

2.1.1 *Microwave ovens, excluding any microwave oven component of a combined cooking product.* Install the microwave oven in accordance with the manufacturer's instructions and connect to an electrical supply circuit with voltage as specified in section 2.2.1 of this appendix. Install the microwave oven in accordance with section 5, paragraph 5.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), disregarding the provisions regarding batteries and the determination, classification, and testing of relevant modes. If the microwave oven can communicate through a network (*e.g.,* Bluetooth® or internet connection), disable the network function, by means provided in the manufacturer's user manual, for the duration of testing. If the manufacturer's user manual does not provide a means for disabling the network function, test the microwave oven with the network function in the factory default setting or in the as-shipped condition as instructed in Section 5, Paragraph 5.2 of IEC 62301 (Second Edition). The clock display must be on, regardless of manufacturer's instructions or default setting or supplied setting. The clock display must remain on during testing, unless the clock display powers down automatically with no option for the consumer to override this function. Install a watt meter in the circuit that meets the requirements of section 2.6.1.1 of this appendix.

* * * * *

[FR Doc. 2021–16023 Filed 8–2–21; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AF27

Simplification of Deposit Insurance Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation is seeking comment on proposed amendments to its regulations governing deposit insurance coverage. The proposed rule would simplify the deposit insurance regulations by establishing a ''trust accounts'' category that would provide for coverage of deposits of both revocable trusts and irrevocable trusts, and provide consistent deposit insurance treatment for all mortgage servicing account balances held to satisfy principal and interest obligations to a lender.

DATES: Comments will be accepted until October 4, 2021.

ADDRESSES: You may submit comments on the notice of proposed rulemaking using any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow the instructions for submitting comments on the agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–AF27 on the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-RIN 3064–AF27, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/.*

FOR FURTHER INFORMATION CONTACT: James Watts, Counsel, Legal Division, (202) 898–6678, *jwatts@fdic.gov;* Kathryn Marks, Counsel, Legal Division, (202) 898–3896, *kmarks@fdic.gov.*

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I. Simplification of Deposit Insurance Trust Rules

A. Policy Objectives

The Federal Deposit Insurance Corporation (FDIC) is seeking comment on proposed amendments to its regulations governing deposit insurance coverage for deposits held in connection with trusts.[1] The proposed amendments are intended to (1) provide depositors and bankers with a rule for trust account coverage that is easy to understand and (2) to facilitate the prompt payment of deposit insurance in accordance with the Federal Deposit Insurance Act (FDI Act), among other objectives. Accomplishing these objectives also would further the FDIC's mission in other respects, as discussed in greater detail below.

Clarifying Insurance Coverage for Trust Deposits

The proposed amendments would clarify for depositors, bankers, and other interested parties the insurance rules and limits for trust accounts. The proposal both reduces the number of rules governing coverage for trust accounts and establishes a straightforward calculation to determine coverage. The deposit insurance trust rules have evolved over time and can be difficult to apply in some circumstances. The proposed amendments are intended to alleviate some of the confusion that depositors and bankers may experience with respect to insurance coverage and limits. Under the current regulations, there are distinct and separate sets of rules applicable to deposits of revocable trusts and irrevocable trusts. Each set of rules has its own criteria for coverage and methods by which coverage is calculated. Despite the FDIC's efforts to simplify the revocable trust rules in 2008,[2] over the last 13 years FDIC deposit insurance specialists have responded to approximately 20,000 complex insurance inquiries per year on average. More than 50 percent of inquiries pertain to deposit insurance coverage for trust accounts (revocable or irrevocable). The consistently high volume of complex inquiries about trust accounts over an extended period of time suggests continued confusion about insurance limits. To help clarify insurance limits, the proposed amendments would further simplify insurance coverage of trust accounts (revocable and irrevocable) by harmonizing the coverage criteria for certain types of trust accounts and by establishing a simplified formula for calculating coverage that would apply to these deposits. The FDIC proposes using the calculation that the FDIC first adopted in 2008 for revocable trust accounts with five or fewer beneficiaries. This formula is straightforward and is already generally familiar to bankers and depositors.[3]

Prompt Payment of Deposit Insurance

The FDI Act requires the FDIC to pay depositors ''as soon as possible'' after a bank failure. However, the insurance determination and subsequent payment for many trust deposits can be delayed when FDIC staff must review complex trust agreements and apply various rules for determining deposit insurance coverage. The proposed amendments are intended to facilitate more timely deposit insurance determinations for trust accounts by reducing the amount of time needed to review trust agreements and determine coverage. These amendments should promote the FDIC's ability to pay insurance to depositors promptly following the failure of an insured depository institution (IDI), enabling depositors to meet their financial needs and obligations.

Facilitating Resolutions

The proposed changes will also facilitate the resolution of failed IDIs. The FDIC is routinely required to make deposit insurance determinations in connection with IDI failures. In many of these instances, however, deposit insurance coverage for trust deposits is based upon information that is not maintained in the failed IDI's deposit account records. As a result, FDIC staff work with depositors, trustees, and other parties to obtain trust documentation following an IDI's failure in order to complete deposit insurance determinations. The difficulties associated with completing such a determination are exacerbated by the substantial growth in the use of formal trusts in recent decades. The proposed amendments could reduce the time spent reviewing such information and provide greater flexibility to automate deposit insurance determinations, thereby reducing potential delays in the completion of deposit insurance determinations and payments. Timely payment of deposit insurance also helps to avoid reductions in the franchise value of failed IDIs, expanding resolution options and mitigating losses.

Effects on the Deposit Insurance Fund

The FDIC is also mindful of the effect that the proposed changes to the deposit insurance regulations could have on deposit insurance coverage and generally on the Deposit Insurance Fund (DIF), which is used to pay deposit insurance in the event of an IDI's failure. The FDIC manages the DIF according to parameters established by Congress and continually evaluates the adequacy of the DIF to protect insured depositors. The FDIC's general intent is that proposed amendments to the trust rules be neutral with respect to the DIF.

B. Background

1. Deposit Insurance and the FDIC's Statutory and Regulatory Authority

The FDIC is an independent agency that maintains stability and public confidence in the nation's financial system by: Insuring deposits; examining and supervising IDIs for safety and soundness and compliance with consumer financial protection laws; and resolving IDIs, including large and complex financial institutions, and managing receiverships. The FDIC has helped to maintain public confidence in

[1] Trusts include informal revocable trusts (commonly referred to as payable-on-death accounts, in-trust-for accounts, or Totten trusts), formal revocable trusts, and irrevocable trusts.

[2] *See* 73 FR 56706 (Sep. 30, 2008).

[3] In 2008, the FDIC adopted an insurance calculation for revocable trusts that have five or fewer beneficiaries. Under this rule, 12 CFR 330.10(a), each trust grantor is insured up to $250,000 per beneficiary.

times of financial turmoil, including the period from 2008 to 2013, when the United States experienced a severe financial crisis, and more recently in 2020 during the financial stress associated with the COVID–19 pandemic. During the more than 88 years since the FDIC was established, no depositor has lost a penny of FDIC-insured funds.

The FDI Act establishes the key parameters of deposit insurance coverage, including the standard maximum deposit insurance amount (SMDIA), currently $250,000.[4] In addition to providing deposit insurance coverage up to the SMDIA at each IDI where a depositor maintains deposits, the FDI Act also provides separate insurance coverage for deposits that a depositor maintains in different rights and capacities (also known as insurance categories) at the same IDI.[5] For example, deposits in the single ownership category are separately insured from deposits in the joint ownership category at the same IDI.

The FDIC's deposit insurance categories have been defined through both statute and regulation. Certain categories, such as the government deposit category, have been expressly defined by Congress.[6] Other categories, such as joint deposits and corporate deposits, have been based on statutory interpretation and recognized through regulations issued in 12 CFR part 330 pursuant to the FDIC's rulemaking authority. In addition to defining the insurance categories, the deposit insurance regulations in part 330 provide the criteria used to determine insurance coverage for deposits in each category.

2. Evolution of Insurance Coverage of Trust Deposits

Over the years, deposit insurance coverage has evolved to reflect both the FDIC's experience and changes in the banking industry. The FDI Act includes provisions defining the coverage for certain trust deposits,[7] while coverage for other trust deposits has been defined by regulation.[8] The following review of historical coverage for trust deposits provides context for the FDIC's proposed amendments to the trust rules.

In the FDIC's earliest years, deposit insurance coverage for trust deposits depended upon whether the beneficiaries of the trust were named in the bank's records. If the beneficiaries were named in the bank's records, the trust deposit was insured according to the beneficiaries' respective interests because the deposit was held in trust for the beneficiaries. If beneficiaries were not named in the bank's records, the grantor trustee was treated as the depositor instead and insured to the applicable limit (then $5,000); however, the trust deposit was insured separately from the trustee's other deposits, if any, at the same bank.[9] If the bank itself was designated as trustee of the trust, deposits of the trust were insured up to the $5,000 limit for each trust estate pursuant to statute.[10]

Over time, some states began recognizing the existence of a trust based on a designation in the bank's records that a deposit was held in trust for another person—even in the absence of a written trust agreement. In 1955, the FDIC's then-General Counsel concluded that if relevant state law recognized these ''Totten trusts'' [11] and the depositor complied with the law in establishing the trust, the FDIC would insure these deposits separately from the depositor's other deposit accounts.[12] This was the first time the FDIC insured informal trusts as trust deposits.

The FDIC further clarified insurance coverage for trust deposits in 1967 when it issued rules defining the deposit insurance categories that the FDIC had recognized.[13] These rules defined a ''testamentary accounts'' category that included revocable trust accounts, tentative or Totten trust accounts, and payable-on-death accounts and similar accounts evidencing an intention that the funds shall belong to another person upon the depositor's death. Testamentary deposits were insured up to the applicable limit (which Congress had raised to $15,000) for each named beneficiary who was the depositor's spouse, child, or grandchild. If the named beneficiary did not satisfy this kinship requirement, the deposit was aggregated with the depositor's individual accounts for purposes of deposit insurance coverage. The rules also included a separate ''trust accounts'' category for irrevocable trusts with coverage of up to $15,000 for each beneficiary's trust interests in deposit accounts established by the same grantor pursuant to a trust agreement. Irrevocable trust accounts were insured separately from other deposit accounts of the trustee, grantor, or beneficiary, including testamentary accounts.

In 1989, Congress transferred responsibility for insuring deposits of savings associations from the Federal Savings and Loan Insurance Corporation (FSLIC) to the FDIC. As part of this transition, the FDIC issued uniform deposit insurance rules for the deposits of banks and savings associations, reconciling the differences between the FDIC and FSLIC insurance rules.[14] These uniform rules redesignated the ''testamentary accounts'' category as ''revocable trust accounts,'' and continued to require beneficiaries for revocable trust deposits to be named, but added the requirement that these beneficiaries be named in the failed IDI's deposit account records in order for per-beneficiary coverage to apply. In the notice of proposed rulemaking discussing this change, the FDIC explained that the change was expected to simplify the deposit insurance determination process for revocable trust deposits and expedite the payment of deposit insurance.[15] These rules also redesignated the ''trust accounts'' category as ''irrevocable trust accounts'' and introduced a distinction between contingent interests and non-contingent interests in irrevocable trusts that would affect deposit insurance coverage. Non-contingent interests were each insured up to the applicable limit (then $100,000), while contingent interests were aggregated and insured up to $100,000 in total.[16]

As revocable trusts increased in popularity during the late 1980s and early 1990s as an estate planning tool, the FDIC began receiving more inquiries about the revocable trust rules. Many of these inquiries were prompted by complex trust agreements that included numerous conditions prescribing whether, when, or how a named beneficiary would receive trust assets. FDIC staff generally interpreted the revocable trust rules to require

[4] *See* 12 U.S.C. 1821(a)(1)(E).

[5] *See* 12 U.S.C. 1821(a)(1)(C) (deposits ''maintained by a depositor in the same capacity and the same right'' at the same IDI are aggregated for purposes of the deposit insurance limit).

[6] 12 U.S.C. 1821(a)(2).

[7] *See* 12 U.S.C. 1817(i), 1821(a).

[8] See 12 CFR 330.10, 330.13.

[9] *See* 1934 FDIC Annual Report at 143.

[10] *See* Banking Act of 1935, Public Law 74–305 (Aug. 23, 1935), section 101 (''Trust funds held by an insured bank in a fiduciary capacity whether held in its trust or deposited in any other department or in another bank shall be insured in an amount not to exceed $5,000 for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust funds shall be similarly insured to the fiduciary bank according to the trust estates represented.'').

[11] The name ''Totten trust'' is derived from an early New York court decision recognizing this form of trust, *Matter of Totten,* 179 N.Y. 112 (N.Y. 1904). Many other states have recognized similar types of accounts, commonly known as ''payable-on-death'' accounts or tentative trust accounts.

[12] *Separate Insurability of ''Totten Trust'' Accounts* (June 1, 1955), Federal Banking Law Reporter ¶ 92,583.

[13] 32 FR 10408 (July 14, 1967).

[14] 55 FR 20111 (May 15, 1990).

[15] 54 FR 52399, 52408 (Dec. 21, 1989) (notice of proposed rulemaking).

[16] 55 FR 20126 (May 15, 1990).

beneficiaries' interests in formal and informal revocable trusts to be *vested* in order to qualify for separate insurance coverage, meaning that, after a grantor's death, there was no condition attached to the beneficiary's interest that would make the interest contingent (referred to as a ''defeating contingency'').[17] Staff reasoned that only a vested trust interest could establish a reasonable expectation that the revocable trust deposit ''shall belong to'' the beneficiary, as the regulation required.

In 1996, the FDIC sought public comment on potential simplification of the deposit insurance rules, noting that its experience with bank and savings association failures and a steady volume of inquiries on deposit insurance coverage suggested that simplification could be beneficial.[18] Among other changes, the FDIC proposed specific amendments to the rules for revocable trust deposits. Certain of these changes were finalized in 1998, when a provision was added to the rules defining the conditions that would constitute a defeating contingency.[19] Soon afterward, the FDIC expanded the list of beneficiaries that would qualify for per-beneficiary coverage to include siblings and parents, noting that some depositors had lost money in bank failures because they had named non-qualifying beneficiaries.[20]

In 2003, the FDIC proposed amending the revocable trust rules, pointing to continued confusion about the coverage for revocable trust deposits.[21] Specifically, the FDIC proposed to eliminate the defeating contingency provisions of the rules, with the result that coverage would be based on the interests of qualifying beneficiaries, irrespective of any defeating contingencies in the trust agreement. The FDIC subsequently adopted this change, noting that it more closely aligned coverage for living trust accounts with payable-on-death accounts.[22] Defeating contingency provisions were not eliminated for irrevocable trusts. At the same time, the FDIC also eliminated the requirement to name the beneficiaries of a formal revocable trust in the IDI's deposit account records.[23] Because the FDIC had to obtain and review trust agreements from depositors following an IDI's failure to determine the eligibility of the beneficiaries and allocation of funds to each beneficiary, eliminating this requirement was based on the conclusion that also requiring IDIs to maintain records of trust beneficiaries, or requiring grantors to inform IDIs of changes in their trust agreements, was unnecessary and burdensome. Though the additional information might expedite deposit insurance payments, the FDIC determined that removing this recordkeeping requirement would support ongoing efforts under the Economic Growth and Regulatory Paperwork Reduction Act to eliminate unnecessary regulatory requirements.

The FDIC's experience with making deposit insurance determinations during the early stages of the most recent financial crisis suggested that further changes to the trust rules were necessary. In 2008, the FDIC simplified the rules in several respects.[24] First, it eliminated the kinship requirement for revocable trust beneficiaries, instead allowing any natural person, charitable organization, or non-profit, to qualify for per-beneficiary coverage. Second, a simplified calculation was established if a revocable trust named five or fewer beneficiaries; coverage would be determined without regard to the allocation of interests among the beneficiaries. This eliminated the need to discern and consider beneficial interests in many cases.

A different insurance calculation applied to revocable trusts with more than five beneficiaries. Specifically, at that time, the SMDIA was $100,000 and thus if more than five beneficiaries were named in a revocable trust, coverage would be the greater of: (1) $500,000; or (2) the aggregate amount of all beneficiaries' interests in the trust(s), limited to $100,000 per beneficiary. When the SMDIA was increased to $250,000, a similar adjustment was made from $100,000 to $250,000 for the calculation of per beneficiary coverage.

3. Current Rules for Coverage of Trust Deposits

The FDIC currently recognizes three different insurance categories for deposits held in connection with trusts: (1) Revocable trusts; (2) irrevocable trusts; and (3) irrevocable trusts with an IDI as trustee. The current rules for determining insurance coverage for deposits in each of these categories are described below.

Revocable Trust Deposits

The revocable trust category applies to deposits for which the depositor has evidenced an intention that the deposit shall belong to one or more beneficiaries upon his or her death. This category includes deposits held in connection with formal revocable trusts—that is, revocable trusts established through a written trust agreement. It also includes deposits that are not subject to a formal trust agreement, where the IDI makes payment to the beneficiaries identified in the IDI's records upon the depositor's death based on account titling and applicable state law. The FDIC refers to these types of deposits, including Totten trust accounts, payable-on-death accounts, and similar accounts, as ''informal revocable trusts.'' Deposits associated with formal and informal revocable trusts are aggregated for purposes of the deposit insurance rules; thus, deposits that will pass from the same grantor to beneficiaries are aggregated and insured up to the SMDIA, currently $250,000, per beneficiary, regardless of whether the transfer would be accomplished through a written revocable trust or an informal revocable trust.[25]

Under the current revocable trust rules, beneficiaries include natural persons, charitable organizations, and non-profit entities recognized as such under the Internal Revenue Code of 1986.[26] If a named beneficiary does not satisfy this requirement, funds held in trust for that beneficiary are treated as single ownership funds of the grantor and aggregated with any other single ownership accounts that the grantor maintains at the same IDI.[27]

Certain requirements also must be satisfied for a deposit to be insured in the revocable trust category. The required intention that the funds shall belong to the beneficiaries upon the depositor's death must be manifested in the ''title'' of the account using commonly accepted terms such as ''in trust for,'' ''as trustee for,'' ''payable-on-death to,'' or any acronym for these terms. For purposes of this requirement, ''title'' includes the IDI's electronic deposit account records. For example, an IDI's electronic deposit account records could identify the account as a revocable trust account through coding or a similar mechanism.[28] In addition,

[17] *See, e.g.,* Advisory Opinion 94–32, *Guidelines for Insurance Coverage of Revocable Trust Accounts (Including ''Living Trust'' Accounts),* (May 18, 1994). While the vested interest requirement applied to both formal and informal trusts, interests in informal trusts were generally considered to be vested because they automatically passed to the designated beneficiaries upon the death of the last grantor.

[18] 61 FR 25596 (May 22, 1996).

[19] 63 FR 25750 (May 11, 1998).

[20] 64 FR 15653 (Apr. 1, 1999).

[21] 68 FR 38645 (June 30, 2003).

[22] 69 FR 2825 (Jan. 21, 2004).

[23] 69 FR 2825, 2828 (Jan. 21, 2004).

[24] 73 FR 56706 (Sep. 30, 2008).

[25] 12 CFR 330.10(a).

[26] 12 CFR 330.10(c).

[27] 12 CFR 330.10(d).

[28] 12 CFR 330.10(b)(1).

the beneficiaries of informal trusts (*i.e.,* payable-on-death accounts) must be named in the IDI's deposit account records.[29] Since 2004, the requirement to name beneficiaries in the IDI's deposit account records has not applied to formal revocable trusts; the FDIC generally obtains information on beneficiaries of such trusts from depositors following an IDI's failure. Therefore, if a formal revocable trust deposit exceeds $250,000 and the depositor's IDI were to fail, this will likely result in a hold being placed on the deposit until the FDIC can review the trust agreement and verify that the beneficiary rules are satisfied, thereby delaying insurance determinations and payments to insured depositors.

The calculation of deposit insurance coverage for revocable trust deposits depends upon the number of unique beneficiaries named by a depositor. If five or fewer beneficiaries have been named, the depositor is insured in an amount up to the total number of named beneficiaries multiplied by the SMDIA, and the specific allocation of interests among the beneficiaries is not considered.[30] If more than five beneficiaries have been named, the depositor is insured up to the greater of: (1) Five times the SMDIA; or (2) the total of the interests of each beneficiary, with each such interest limited to the SMDIA.[31] For purposes of this calculation, a life estate interest is valued at the SMDIA.[32]

Where a revocable trust deposit is jointly owned by multiple co-owners, the interests of each account owner are separately insured up to the SMDIA per beneficiary.[33] However, if the co-owners are the only beneficiaries of the trust, the account is instead insured under the FDIC's joint account rule.[34]

The current revocable trust rule also contains a provision that was intended to reduce confusion and the potential for a decrease in deposit insurance coverage in the case of the death of a grantor. Specifically, if a revocable trust becomes irrevocable due to the death of the grantor, the trust's deposit may continue to be insured under the revocable trust rules.[35] Absent this provision, the irrevocable trust rules would apply following the grantor's death, as the revocable trust becomes irrevocable at that time, which could result in a reduction in coverage.[36]

Irrevocable Trust Deposits

Deposits held by an irrevocable trust that has been established either by written agreement or by statute are insured in the irrevocable trust deposit insurance category. Calculating coverage for deposits insured in this category requires a determination of whether beneficiaries' interests in the trust are contingent or non-contingent. Non-contingent interests are interests that may be determined without evaluation of any contingencies, except for those covered by the present worth and life expectancy tables and the rules for their use set forth in the IRS Federal Estate Tax Regulations.[37] Funds held for non-contingent trust interests are insured up to the SMDIA for each such beneficiary.[38] Funds held for contingent trust interests are aggregated and insured up to the SMDIA in total.[39]

The irrevocable trust rules do not apply to deposits held for a grantor's retained interest in an irrevocable trust.[40] Such deposits are aggregated with the grantor's other single ownership deposits for purposes of applying the deposit insurance limit.

Deposits Held by an IDI as Trustee of an Irrevocable Trust

For deposits held by an IDI in its capacity as trustee of an irrevocable trust, deposit insurance coverage is governed by section 7(i) of the FDI Act, a provision rooted in the Banking Act of 1935. Section 7(i) provides that ''trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed the standard maximum deposit insurance amount . . . for each trust estate.''[41]

The FDIC's regulations governing coverage for deposits held by an IDI in its capacity as trustee of an irrevocable trust are found in § 330.12. The rule provides that ''trust funds'' held by an IDI in its capacity as trustee of an irrevocable trust, whether held in the IDI's trust department or another department, or deposited by the fiduciary institution in another IDI, are insured up to the SMDIA for each owner or beneficiary represented.[42] This coverage is separate from the coverage provided for other deposits of the owners or the beneficiaries,[43] and deposits held for a grantor's retained interest are *not* aggregated with the grantor's single ownership deposits. Given the statutory basis for coverage, the FDIC is not proposing any changes to § 330.12.

4. Part 370 and Recordkeeping at the Largest IDIs

Simplification of the deposit insurance rules would make deposit insurance coverage easier to understand and improve the FDIC's ability to resolve insurance claims in a timely manner, broadly benefiting the public and IDIs, and it would have particular significance for the large IDIs that are subject to part 370 of the FDIC's regulations. Part 370 was adopted in 2016 to promote the timely payment of deposit insurance in the event of the failure of a large IDI.[44] Its development was prompted by the FDIC's goal of ensuring a timely insurance determination in the event a large IDI with a high volume of deposit accounts fails. Part 370 requires ''covered institutions,'' which generally include IDIs with two million or more deposit accounts, to maintain complete and accurate depositor information and to configure their information technology systems so as to permit the FDIC to calculate deposit insurance coverage

[29] 12 CFR 330.10(b)(2).

[30] 12 CFR 330.10(a).

[31] 12 CFR 330.10(e).

[32] 12 CFR 330.10(g). For example, if a revocable trust provides a life estate for the depositor's spouse and remainder interests for six other beneficiaries, the spouse's life estate interest would be valued at $250,000 for purposes of the deposit insurance calculation.

[33] 12 CFR 330.10(f)(1).

[34] 12 CFR 330.10(f)(2).

[35] 12 CFR 330.10(h).

[36] The revocable trust rules tend to provide greater coverage than the irrevocable trust rules because contingencies are not considered for revocable trusts. In addition, where five or fewer beneficiaries are named by a revocable trust, specific allocations to beneficiaries also are not considered.

[37] 12 CFR 330.1(m). For example, a life estate interest is generally non-contingent, as it may be valued using the life expectancy tables. However, where a trustee has discretion to divert funds from one beneficiary to another to provide for the second beneficiary's medical needs, the first beneficiary's interest is contingent upon the trustee's discretion.

[38] 12 CFR 330.13(a).

[39] 12 CFR 330.13(b).

[40] *See* 12 CFR 330.1(r) (definition of ''trust interest'' does not include any interest retained by the settlor).

[41] 12 U.S.C. 1817(i).

[42] Part 330 defines ''trust funds'' as ''funds held by an insured depository institution as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement.'' 12 CFR 330.1(q).

[43] 12 CFR 330.12(a).

[44] 81 FR 87734 (Dec. 5, 2016).

promptly in the event of the IDI's failure. To implement part 370, covered institutions are updating their deposit account records and developing systems capable of applying the deposit insurance rules in an automated manner.

In addition to broadly benefiting the public and all IDIs, simplification of the deposit insurance rules complements part 370 in that it would further promote the timely payment of deposit insurance for depositors of the largest IDIs. For instance, neither part 370 nor any other rule requires covered institutions to maintain certain records necessary to make an insurance determination for formal trust deposits, meaning that the FDIC would need to obtain and review revocable and irrevocable trust agreements following a covered institution's failure. Analysis of data from part 370 covered institutions suggest the number of revocable trusts is significant and, if a covered institution were to fail, processing of deposit insurance for formal revocable trusts would likely extend well beyond normal FDIC payment timeframes. Simplification of the deposit insurance rules would streamline insurance determinations for trust accounts. The FDIC expects that capabilities developed in accordance with part 370 will be helpful in addressing many of the challenges involved in making deposit insurance determinations in connection with a very large IDI's failure. Simplification of the deposit insurance rules would provide additional benefits by reducing the amount of time needed to collect and process trust information after failure in order to make use of a covered institution's part 370 deposit insurance calculation capabilities. With less time needed to calculate insurance coverage, the FDIC would be able to make more timely insurance payments to insured depositors.

5. Need for Further Rulemaking

The rules governing deposit insurance coverage for trust deposits have been simplified on several occasions, but are still frequently misunderstood, and can present some implementation challenges. For example, the current trust rules often require detailed, time-consuming, and resource-intensive review of trust documentation to obtain the information that is necessary to calculate deposit insurance coverage. This information is often not found in an IDI's records and must be obtained from depositors after an IDI's failure. For example, the FDIC's deposit insurance determinations for depositors of IndyMac Bank, F.S.B. (IndyMac) following its failure in 2008 were challenging in part because IndyMac had a large number of trust accounts for which deposit insurance coverage was governed by complex deposit insurance rules.[45] FDIC claims personnel contacted more than 10,500 IndyMac depositors to obtain the trust documentation necessary to complete deposit insurance determinations for their revocable trust and irrevocable trust deposits. In some cases, this process took several months. Revision of the deposit insurance coverage rules for trust deposits along the lines proposed would reduce the amount of information that must be provided by trust depositors, as well as the complexity of the FDIC's review. This revision should enable the FDIC to complete deposit insurance determinations more rapidly if another IDI with a large number of trust accounts were to fail in the future. Delays in the payment of deposit insurance can be consequential, as revocable trust deposits in particular are often used by depositors to satisfy their daily financial obligations, and the proposal would help to mitigate those delays.

Several factors contribute to the challenges of making insurance determinations for trust deposits. First, there are three different sets of rules governing deposit insurance coverage for trust deposits. Understanding the coverage for a particular deposit requires a threshold inquiry to determine which set of rules to apply—the revocable trust rules, the irrevocable trust rules, or the rules for deposits held by an IDI as trustee of an irrevocable trust. This requires review of the trust agreement to determine the type of trust (revocable or irrevocable), and the inquiry may be complicated by innovations in state trust law that are intended to increase the flexibility and utility of trusts. In some cases, this threshold inquiry is also complicated by the provision of the revocable trust rules that allows for continued coverage under those rules where a trust becomes irrevocable upon the grantor's death. The result of an irrevocable trust deposit being insured under the revocable trust rules has proven confusing for both depositors and bankers.

Second, even after determining which set of rules applies to a particular deposit, it may be challenging to apply the rules. For example, the revocable trust rules include unique titling requirements and beneficiary requirements. These rules also provide for two separate calculations to determine insurance coverage, depending in part upon whether there are five or fewer trust beneficiaries or at least six beneficiaries. In addition, for revocable trusts that provide benefits to multiple generations of potential beneficiaries, the FDIC needs to evaluate the trust agreement to determine whether a beneficiary is a primary beneficiary (immediately entitled to funds when a grantor dies), contingent beneficiary, or remainder beneficiary. Only ''eligible'' primary beneficiaries and remainder beneficiaries are considered in calculating FDIC deposit insurance coverage. The irrevocable trust rules may require detailed review of trust agreements to determine whether beneficiaries' interests are contingent and may also require actuarial or present value calculations. These types of requirements complicate the determination of insurance coverage for trust deposits, have proven confusing for depositors, and extend the amount of time needed to complete a deposit insurance determination and insurance payment.

Third, the complexity and variety of depositors' trust arrangements adds to the difficulty of determining deposit insurance coverage. For example, trust interests are sometimes defined through numerous conditions and formulas, and a careful analysis of these provisions may be necessary in order to calculate deposit insurance coverage under the current rules. Arrangements involving multiple trusts where the same beneficiaries are named by the same grantor(s) in different trusts add to the difficulty of applying the trust rules.

The FDIC believes that simplification of the deposit insurance rules also presents an opportunity to more closely align the coverage provided for different types of trust deposits. For example, the revocable trust rules generally provide for a greater amount of coverage than the irrevocable trust rules. This outcome occurs because contingent interests for irrevocable trusts are aggregated and insured up to the SMDIA rather than being insured up to the SMDIA per beneficiary, while contingencies are not considered and therefore do not limit coverage in the same manner for revocable trusts.

C. Description of Proposed Rule

The FDIC is proposing to amend the rules governing deposit insurance coverage for trust deposits. Generally, the proposed amendments would: Merge the revocable and irrevocable trust categories into one category; apply a simpler, common calculation method

[45] *See Crisis and Response: An FDIC History, 2008–2013* at 197, FN 48, Federal Deposit Insurance Corporation 2017.

to determine insurance coverage for deposits held by revocable and irrevocable trusts; and eliminate certain requirements found in the current rules for revocable and irrevocable trusts.

Merger of Revocable and Irrevocable Trust Categories

As discussed above, the FDIC historically has insured revocable trust deposits and irrevocable trust deposits under two separate insurance categories. Staff's experience has been that this bifurcation often confuses depositors and bankers, as it requires a threshold inquiry to determine which set of rules to apply to a trust deposit. Moreover, each trust deposit must be categorized before the aggregation of trust deposits within each category can be completed.

The FDIC believes that trust deposits held in connection with revocable and irrevocable trusts are sufficiently similar, for purposes of deposit insurance coverage, to warrant the merger of these two categories into one category. Under the FDIC's current rules, deposit insurance coverage is provided because the trustee maintains the deposit for the benefit of the beneficiaries. This is true regardless of whether the trust is revocable or irrevocable. Merger of the revocable and irrevocable trust categories would better conform deposit insurance coverage to the substance—rather than the legal form—of the trust arrangement. This underlying principle of the deposit insurance rules is particularly important in the context of trusts, as state law often provides flexibility to structure arrangements in different ways to accomplish a given purpose.[46] Depositors may have a variety of reasons for selecting a particular legal arrangement, but that decision should not significantly affect deposit insurance coverage. Importantly, the proposed merger of the revocable trust and irrevocable trust categories into one category for deposit insurance purposes would not affect the application or operation of state trust law; this only would affect the determination of deposit insurance coverage for these types of trust deposits in the event of an IDI's failure.

Accordingly, the FDIC is proposing to amend § 330.10 of its regulations, which currently applies only to revocable trust deposits, to establish a new ''trust accounts'' category that would include both revocable and irrevocable trust deposits. The proposed rule defines the deposits that would be included in this category: (1) Informal revocable trust deposits, such as payable-on-death accounts, in-trust-for accounts, and Totten trust accounts; (2) formal revocable trust deposits, defined to mean deposits held pursuant to a written revocable trust agreement under which a deposit passes to one or more beneficiaries upon the grantor's death; and (3) irrevocable trust deposits, meaning deposits held pursuant to an irrevocable trust established by written agreement or by statute. Section 330.10 would not apply to deposits maintained by an IDI in its capacity as trustee of an irrevocable trust; these deposits would continue to be insured separately pursuant to section 7(i) of the FDI Act and § 330.12 of the deposit insurance regulations.

In addition, the merger of the revocable trust and irrevocable trust categories eliminates the need for § 330.10(h)–(i) of the current revocable trust rules, which provides that the revocable trust rules may continue to apply to a deposit where a revocable trust becomes irrevocable due to the death of one or more of the trust's grantors. These provisions were intended to benefit depositors, who sometimes were unaware that a trust owner's death could also trigger a significant decrease in insurance coverage as a revocable trust becomes irrevocable. However, in the FDIC's experience, this rule has proven complex in part because it results in some irrevocable trusts being insured per the revocable trust rules, while other irrevocable trusts are insured under the irrevocable trust rules.[47] As a result, a depositor could know a trust was irrevocable but not know which deposit insurance rules to apply. The proposed rule would insure deposits of revocable trusts and irrevocable trusts according to a common set of rules, eliminating the need for these provisions (§ 330.10(h)–(i)) and simplifying coverage for depositors. Accordingly, the death of a revocable trust owner would not result in a decrease in deposit insurance coverage for the trust. Coverage for irrevocable and revocable trusts would fall under the same category and deposit insurance coverage would remain the same, even after the expiration of the six-month grace period following the death of a deposit owner.[48]

Calculation of Coverage

The FDIC is proposing to use one streamlined calculation to determine the amount of deposit insurance coverage for deposits of revocable and irrevocable trusts. This method is already utilized by the FDIC to calculate coverage for revocable trusts that have five or fewer beneficiaries and it is an aspect of the rules that is generally well-understood by bankers and trust depositors.

The proposed rule would provide that a grantor's trust deposits are insured in an amount up to the SMDIA (currently $250,000) multiplied by the number of trust beneficiaries, not to exceed five beneficiaries. The FDIC would presume that, for deposit insurance purposes, the trust provides for equal treatment of beneficiaries such that specific allocation of the funds to the respective beneficiaries will not be relevant, consistent with the FDIC's current treatment of revocable trusts with five or fewer beneficiaries. This would, in effect, limit coverage for a grantor's trust deposits at each IDI to a total of $1,250,000; in other words, maximum coverage would be equivalent to $250,000 per beneficiary up to five beneficiaries. In determining deposit insurance coverage, the FDIC would continue to only consider beneficiaries that are expected to receive the deposit held by the trust in the IDI; the FDIC would not consider beneficiaries who are expected to receive only non-deposit assets of the trust.

The FDIC is proposing to calculate coverage in this manner based on its experience with the revocable trust rules after the most recent modifications to these rules in 2008. The FDIC has found that the deposit insurance calculation method for revocable trusts with five or fewer beneficiaries has been the most straightforward and is easy for bankers and the public to understand. This calculation provides for insurance in an amount up to the total number of unique grantor-beneficiary trust relationships (*i.e.,* the number of grantors, multiplied by the total number of beneficiaries, multiplied by the SMDIA).[49] In addition to being simpler,

[46] For example, the FDIC currently aggregates deposits in payable-on-death accounts and deposits of written revocable trusts for purposes of deposit insurance coverage, despite their separate and distinct legal mechanisms. Also, where the co-owners of a revocable trust are also that trust's sole beneficiaries, the FDIC instead insures the trust's deposits as joint deposits, reflecting the arrangement's substance rather than its legal form.

[47] As noted above, if a revocable trust becomes irrevocable due to the death of the grantor, the trust's deposit continues to be insured under the revocable trust rules. 12 CFR 330.10(h).

[48] The death of an account owner can affect deposit insurance coverage, often reducing the amount of coverage that applies to a family's accounts. To ensure that families dealing with the death of a family member have adequate time to review and restructure accounts if necessary, the FDIC insures a deceased owner's accounts as if he or she were still alive for a period of six months after his or her death. 12 CFR 330.3(j).

[49] For example, two co-grantors that designate five beneficiaries are insured for up to $2,500,000 ($2 \times 5 \times \$250,000$).

this calculation has proven beneficial in resolutions, as it leads to more prompt deposit insurance determinations and quicker access to insured deposits for depositors. Accordingly, the FDIC proposes to calculate deposit insurance coverage for trust deposits based on the simpler calculation currently used for revocable trusts with five or fewer beneficiaries.

The streamlined calculation that would be used to determine coverage for revocable trust deposits and irrevocable trust deposits includes a limit on the total amount of deposit insurance coverage for all of a depositor's funds in the trust category at the same IDI. The proposed rule would provide coverage for trust deposits at each IDI up to a total of $1,250,000 per grantor; in other words, each grantor's insurance limit would be $250,000 per beneficiary up to a maximum of five beneficiaries. The level of five beneficiaries is an important threshold in the current revocable trust rules, as it defines whether a grantor's coverage is determined using the simpler calculation of the number of beneficiaries multiplied by the SMDIA, rather than the more complex calculation involving the consideration of the amount of each beneficiary's specific interest (which applies when there are six or more beneficiaries). The trust rules currently limit coverage by tying coverage to the specific interests of each beneficiary of an irrevocable trust or of each beneficiary of a revocable trust with more than five beneficiaries. The proposed rule's $1,250,000 per-grantor, per-IDI limit is more straightforward and balances the objectives of simplifying the trust rules, promoting timely payment of deposit insurance, facilitating resolutions, ensuring consistency with the FDI Act, and limiting risk to the DIF.

The FDIC anticipates that limiting coverage to $1,250,000 per grantor, per IDI, for trust deposits would affect very few depositors, as most trust deposits in past IDI failures have had balances well below this level. For example, data obtained from a sample of IDI failures from 2010–2020 suggests that only about 0.085 percent of depositors maintaining trust deposits might be affected by the proposed $1,250,000 limit.[50] The FDIC does not possess sufficient information, however, to enable it to project the effects of the proposed limit on current depositors, and requests that commenters provide information that might be helpful in this regard.

Under the proposed rule, to determine the level of insurance coverage that would apply to trust deposits, depositors would still need to identify the grantors and the eligible beneficiaries of the trust. The level of coverage that applies to trust deposits would no longer be affected by the specific allocation of trust funds to each of the beneficiaries of the trust or by contingencies outlined in the trust agreement. Instead, the proposed rule would provide that a grantor's trust deposits are insured up to a total of $1,250,000 per grantor, or an amount up to the SMDIA multiplied by the number of eligible beneficiaries, with a limit of no more than five beneficiaries.

Aggregation

The proposed rule also provides for the aggregation of revocable and irrevocable trust deposits for purposes of applying the deposit insurance limit. Under the current rules, deposits of informal revocable trusts and formal revocable trusts are aggregated for this purpose.[51] The proposed rule would aggregate a grantor's informal and formal revocable trust deposits, as well as irrevocable trust deposits. For example, all informal revocable trusts, formal revocable trusts and irrevocable trusts held for the same grantor, at the same IDI would be aggregated and the grantor's insurance limit would be determined by how many eligible and unique beneficiaries were identified between all of their trust accounts.[52] The deposit insurance coverage provided in the ''trust accounts'' category would continue to remain separate from the coverage provided for other deposits held in a different right and capacity at the same IDI. However, a small number of depositors that currently maintain both revocable trust and irrevocable trust deposits at the same IDI may have deposits in excess of the insurance limit if these separate categories are combined. The FDIC does not have data on depositors' trust arrangements that would allow it to estimate the number of depositors that might be affected in this manner, and requests that commenters provide information that might be helpful in this regard.

Eligible Beneficiaries

Currently, the revocable trust rules provide that beneficiaries include natural persons, charitable organizations, and non-profit entities recognized as such under the Internal Revenue Code of 1986,[53] while the irrevocable trust rules do not establish criteria for beneficiaries. The FDIC believes that a single definition should be used to determine whether an entity is an ''eligible'' beneficiary for all trust deposits, and proposes to use the current revocable trust rule's definition. The FDIC believes that this will result in a change in deposit insurance coverage only in very rare cases.

The proposed rule also would exclude from the calculation of deposit insurance coverage beneficiaries that only would obtain an interest in a trust if one or more named beneficiaries are deceased (often referred to as contingent beneficiaries). In this respect, the proposed rule would codify existing practice to include only primary, unique beneficiaries in the deposit insurance calculation.[54] This would not represent a substantive change in coverage. Consistent with treatment under the current trust rules, naming a chain of contingent beneficiaries that would obtain trust interests only in event of a beneficiary's death would not increase deposit insurance coverage.

Finally, the proposed rule would codify a longstanding interpretation of the trust rules where an informal

[50] Data from 2,550,001 depositors, including 249,257 trust account depositors, at 246 failed banks from September 17, 2010–April 3, 2020. A total of 212 out of 249,257 (.085 percent) trust account depositors had more than $1.25 million in deposits across all of their trust accounts. Of these depositors, only 24 had more than five beneficiaries named in the bank's records. However, not all trust accounts in the sample maintained beneficiary records at the bank, so this likely underestimates the number of affected depositors.

[51] *See* 12 CFR 330.10(a) (''all funds that a depositor holds in both living trust accounts and payable-on-death accounts, at the same FDIC-insured institution and naming the same beneficiaries, are aggregated for insurance purposes'').

[52] For example, if a grantor maintained both an informal revocable trust account with three beneficiaries and a formal revocable trust account with three separate and unique beneficiaries, the two accounts would be aggregated and the maximum deposit insurance available would be $1.25 million (1 grantor × SMDIA × number of unique beneficiaries, limited to 5). However, if the same three people were the beneficiaries of both accounts, the maximum deposit insurance available would be $750,000 (1 grantor × SMDIA × 3 unique beneficiaries).

[53] 12 CFR 330.10(c).

[54] *See FDIC Financial Institution Employee's Guide to Deposit Insurance* at 51 (''Sometimes the trust agreement will provide that if a primary beneficiary predeceases the owner, the deceased beneficiary's share will pass to an alternative or contingent beneficiary. Regardless of such language, if the primary beneficiary is alive at the time of an IDI's failure, only the primary beneficiary, and not the alternative or contingent beneficiary, is taken into account in calculating deposit insurance coverage.''). Including only unique beneficiaries means that when an owner names the same beneficiary on multiple trust accounts, the beneficiary will only be counted once in calculating trust coverage. For example, if a grantor has two trust deposit accounts and names the same beneficiary in both trust documents, the total deposit insurance coverage associated with that beneficiary is limited to $250,000 in total.

revocable trust designates the depositor's formal trust as its beneficiary. A formal trust generally does not meet the definition of an eligible beneficiary for deposit insurance purposes, but the FDIC has treated such accounts as revocable trust accounts under the trust rules, insuring the account as if it were titled in the name of the formal trust.[55]

Retained Interests and Ineligible Beneficiaries' Interests

The current trust rules provide that in some instances, funds corresponding to specific beneficiaries are aggregated with a grantor's single ownership deposits at the same IDI for purposes of the deposit insurance calculation. These instances include a grantor's retained interest in an irrevocable trust [56] and interests of beneficiaries that do not satisfy the definition of ''beneficiary.'' [57] This adds complexity to the deposit insurance calculation, as detailed review of a trust agreement may be required to value such interests in order to aggregate them with a grantor's other funds. In order to implement the streamlined calculation for trust deposits, the FDIC is proposing to eliminate these provisions. Under the proposed rules, the grantor and other beneficiaries that do not satisfy the definition of ''eligible beneficiary'' would not be included for purposes of the deposit insurance calculation.[58] Importantly, this would not in any way limit a grantor's ability to establish such trust interests under State law. These interests simply would not factor into the calculation of deposit insurance coverage.

Future Trusts Named as Beneficiaries

Trusts often contain provisions for the establishment of one or more new trusts upon the grantor's death, and the proposed rule also would clarify deposit insurance coverage in these situations. Specifically, if a trust agreement provides that trust funds will pass into one or more new trusts upon the death of the grantor (or grantors), the future trust (or trusts) would not be treated as beneficiaries for purposes of the calculation. The future trust(s) instead would be considered mechanisms for distributing trust funds, and the natural persons or organizations that receive the trust funds through the future trusts would be considered the beneficiaries for purposes of the deposit insurance calculation. This clarification is consistent with published guidance and would not represent a substantive change in deposit insurance coverage.[59]

Naming of Beneficiaries in Deposit Account Records

Consistent with the current revocable trust rules, the proposed rule would continue to require the beneficiaries of an informal revocable trust to be specifically named in the deposit account records of the IDI.[60] The FDIC does not believe this requirement imposes a burden on IDIs, as informal revocable trusts by their nature require the IDI to be able to identify the individuals or entities to which a deposit would be paid upon the depositor's death.

Presumption of Ownership

The proposed rule also would state that, unless otherwise specified in an IDI's deposit account records, a deposit of a trust established by multiple grantors is presumed to be owned in equal shares. This presumption is consistent with the current revocable trust rules.[61]

Bankruptcy Trustee Deposits

The proposed rule would continue the current treatment of deposits placed at an IDI by a bankruptcy trustee. If funds of multiple bankruptcy estates were commingled in a single account at the IDI, each estate would be separately insured up to the SMDIA.

Deposits Covered Under Other Rules

The proposed rule would exclude from coverage under § 330.10 certain trust deposits that are covered by other sections of the deposit insurance regulations. For example, employee benefit plan deposits are insured pursuant to § 330.14, and investment company deposits are insured as corporate deposits pursuant to § 330.11. Deposits held by an insured depository institution in its capacity as trustee of an irrevocable trust are insured pursuant to § 330.12. In addition, if the co-owners of an informal or formal revocable trust are the trust's sole beneficiaries, deposits held in connection with the trust would be treated as joint deposits under § 330.9. In each of these cases, the FDIC is not proposing to change the current rule.

Conforming Changes

The proposed simplification of the calculation for insurance coverage for trust deposits also would permit the elimination of certain definitions from § 330.1 of the regulations. Specifically, § 330.1 defines ''trust interest'' and ''non-contingent trust interest,'' terms that are used in connection with the current irrevocable trust rules. Because the proposed rule would eliminate the evaluation of contingencies in determining coverage for trust deposits, the FDIC is proposing to remove these definitions from the regulation.

Enhancements to Claims Processes

The FDIC is also considering enhancements to its claims processes to further promote prompt insurance determinations for trust deposits. For example, the FDIC may be able to establish enhanced processes and systems for reaching out to depositors and obtaining trust documentation following an IDI's failure. The claims process enhancements adopted by the FDIC will likely depend upon the amendments to the deposit insurance rules, if any, that are adopted through this rulemaking.

D. Examples Demonstrating Coverage Under Current and Proposed Rules

To assist commenters, the FDIC is providing examples demonstrating how the proposed rule would apply to determine deposit insurance coverage for trust deposits. These examples are not intended to be all-inclusive; they merely address a few possible scenarios involving trust deposits. The FDIC expects that for the vast majority of depositors, insurance coverage would not change under the proposed rule. The examples here specifically highlight a few instances where coverage could be reduced to ensure that commenters are aware of them. In addition, in any instances where a trust is established, the examples assume that the trustee is not an IDI.

Example 1: Payable-on-Death Account

Depositor A establishes a payable-on-death account at an FDIC-insured bank. A has designated three beneficiaries for this deposit—B, C, and D—who will receive the funds upon her death, and listed all three on a form provided to the bank. The only other deposit account that A maintains at the same bank is a checking account with no designated beneficiaries. What is the maximum amount of deposit insurance coverage for A's deposits at the bank?

[55] *See FDIC Financial Institution Employee's Guide to Deposit Insurance* at 71.

[56] *See* 12 CFR 330.1(r); *see also FDIC Financial Institution Employee's Guide to Deposit Insurance* at 87.

[57] 12 CFR 330.10(d).

[58] In the unlikely event a trust does not name any eligible beneficiaries, the FDIC would treat the trust's deposits as single ownership deposits. Such deposits would be aggregated with any other single ownership deposits that the grantor maintains at the same IDI and insured up to the SMDIA of $250,000.

[59] *See FDIC Financial Institution Employee's Guide to Deposit Insurance* at 74.

[60] *See* 12 CFR 330.10(b)(2).

[61] *See* 12 CFR 330.10(f).

Under the proposed rule, Depositor A's payable-on-death account represents an informal revocable trust and would be insured in the trust accounts category. The maximum coverage for this deposit would be equal to the SMDIA (currently $250,000) multiplied by the number of grantors (in this case, one because A established the account herself) multiplied by the number of beneficiaries, up to a maximum of five (here three, the number of beneficiaries, is less than five). A's payable-on-death account would be insured for up to: ($250,000) × (1) × (3) = $750,000.

The coverage for A's payable-on-death account is separate from the coverage provided for A's checking account, which would be insured in the single ownership category because she has not named any beneficiaries for that account. The single ownership checking account would be insured up to the SMDIA, $250,000. A's total insurance coverage for her deposits at the bank would be: $750,000 + $250,000 = $1,000,000. Notably, this level of coverage is the same as that provided by the current deposit insurance rules.

Example 2: Formal Revocable Trust and Informal Revocable Trust

Depositors E and F jointly establish a payable-on-death account at an FDIC-insured bank. E and F have designated three beneficiaries for this deposit—G, H and I—who will receive the funds after both E and F are deceased. They list these beneficiaries on a form provided to the bank. E and F also jointly establish an account titled in the name of the ''E and F Living Trust'' at the same bank. E and F are the grantors of the living trust, a formal revocable trust that includes the same three beneficiaries, G, H, and I. The grantors, E and F, do not maintain any other deposit accounts at this same bank. What is the maximum amount of deposit insurance coverage for E and F's deposits?

Under the proposed rule, E and F's payable-on-death account represents an informal revocable trust and would be insured in the trust accounts category. E and F's living trust account constitutes a formal revocable trust and also would be insured in the trust accounts category. To the extent these deposits would pass from the same grantor (E or F) to beneficiaries (G, H, and I), they would be aggregated for purposes of applying the deposit insurance limit. As under the current rules, it would be irrelevant that the grantors' deposits are divided between the payable-on-death account and the living trust account.

The maximum coverage for E and F's deposits would be equal to the SMDIA ($250,000) multiplied by the number of grantors (two, because E and F are the grantors with respect to both deposits) multiplied by the number of unique beneficiaries, up to a maximum of five (here three, the number of beneficiaries, is less than five). Therefore, the coverage for E and F's trust deposits would be: ($250,000) × (2) × (3) = $1,500,000. This level of coverage is the same as that provided by the current deposit insurance rules.

Example 3: Two-Owner Trust and a One-Owner Trust

Depositors J and K jointly establish a payable-on-death account at an FDIC-insured bank. J and K have designated three beneficiaries for this deposit—L, M and N—who will receive the funds after both J and K are deceased. They list these beneficiaries on a form provided to the bank. At the same FDIC-insured bank, J establishes a payable-on-death account and designates K as the beneficiary upon J's death. What is the maximum amount of coverage for J and K's deposits?

Under the proposed rule, both accounts would be insured under the trust account category. To the extent these deposits would pass from the same grantor (J or K) to beneficiaries (such as L, M, and N), they would be aggregated for purposes of applying the deposit insurance limit. For example, K identified three beneficiaries (L, M and N), and therefore, K's insurance limit is $750,000 (or 1 × 3 × SMDIA). K would be fully insured as long as one-half interest of the co-owned trust account was $750,000 or less, which is the same level of coverage provided under current rules.

In this example, J's situation differs from K because J has a second trust account, but the insurance calculation remains the same. Specifically, J has two trust accounts and identified four unique beneficiaries (L, M, N, and K); therefore, J's insurance limit is $1,000,000 (or 1 × 4 × SMDIA). J would remain fully insured as long as J's trust deposits—equal to one-half of the co-owned trust account plus J's personal trust account—total no more than $1,000,000. This methodology and level of coverage is the same as that provided by the current deposit insurance rules.

Example 4: Revocable and Irrevocable Trusts

Depositor O establishes a deposit account at an FDIC-insured bank titled the ''O Living Trust''. O is the grantor of this living trust, a formal revocable trust that includes three beneficiaries—P, Q, and R. The grantor, O, also establishes an irrevocable trust for the benefit of the same three beneficiaries. The trustee of the irrevocable trust maintains a deposit account at the same bank as the living trust account, titled in the name of the irrevocable trust. Neither O nor the trustee maintains other deposit accounts at the same bank. What is the insurance coverage for these deposits?

Under the proposed rule, the living trust account is a deposit of a formal revocable trust and would be insured in the trust accounts category. The deposit of the irrevocable trust also would be insured in the trust accounts category. To the extent these deposits would pass from the same grantor (O) to beneficiaries (P, Q, or R), they would be aggregated for purposes of applying the deposit insurance limit. It would be irrelevant that the deposits are divided between the living trust account and the irrevocable trust account. The maximum coverage for these deposits would be equal to the SMDIA ($250,000) multiplied by the number of grantors (one, because O is the grantor with respect to both deposits) multiplied by the number of beneficiaries, up to a maximum of five (here three, the number of beneficiaries, is less than five). Therefore, the maximum coverage for the trust deposits would be: ($250,000) × (1) × (3) = $750,000.

This is one of the isolated instances where the proposed rule may provide a reduced amount of coverage as a result of the aggregation of revocable and irrevocable trust deposits, depending on the structure of the trust agreement. Under the current rules, O would be insured for up to $750,000 for revocable trust deposits and separately insured for up to $750,000 for irrevocable trust deposits (assuming non-contingent beneficial interests), resulting in $1,500,000 in total coverage. If that were the case, current coverage would exceed that provided by the proposed rule. However, the terms of irrevocable trusts sometimes lead to less coverage than depositors might expect. FDIC staff's experience is that irrevocable trust deposits are often insured only up to $250,000 under the current rules due to contingencies in the trust agreement, but determining this with certainty often requires careful consideration of the trust agreement's contingency provisions. Under the current rule, if contingencies existed, current coverage would exceed that provided by the proposed rule, as O would be insured up to $1,000,000; $750,000 for his revocable trust and $250,000 for his irrevocable trust. In the FDIC's view, one of the key benefits of the proposed rule versus the current rule would be greater clarity and predictability in

deposit insurance coverage because whether contingencies exist would no longer be a factor that could affect deposit insurance.

Example 5: Many Beneficiaries Named

Depositor S establishes a deposit account at an FDIC-insured bank titled in the name of the ''S Living Trust''. This trust is a revocable trust naming seven beneficiaries—T, U, V, W, X, Y, and Z. The grantor, S, does not maintain any other deposits at the same bank. What is the coverage for this deposit?

Under the proposed rule, the living trust account is a deposit of a formal revocable trust and would be insured in the trust accounts category. The maximum coverage for this deposit would be equal to the SMDIA ($250,000) multiplied by the number of grantors (one, because S is the sole grantor) multiplied by the number of beneficiaries, up to a maximum of five. Here the number of named beneficiaries (seven) exceeds the maximum (five) so insurance is calculated using the maximum (five). Coverage for the deposit would be: ($250,000) × (1) × (5) = $1,250,000.

This is another limited instance where the proposed rule may provide for less coverage than the current rule. Under the current rule, because more than five beneficiaries are named, the deposit is insured up to the greater of: (1) Five times the SMDIA; or (2) the total of the interests of each beneficiary, with each such interest limited to the SMDIA. Determining coverage requires review of the trust agreement to ascertain each beneficiary's interest. Each such insurable interest is limited to the SMDIA, and the total of all of these interests is compared with $1,250,000 (five times the SMDIA). The current rule provides coverage in the greater of these two amounts. The result would fall into a range from $1,250,000 to $1,750,000, depending on the precise allocation of trust interests among the beneficiaries.[62] In the FDIC's view, one of the key benefits of the proposed rule versus the current rule would be greater clarity and predictability in deposit insurance coverage because a single formula would be used to determine maximum coverage, and this formula would not depend upon the specific allocation of funds among beneficiaries.

E. Alternatives Considered

The FDIC has considered a number of alternatives to the proposed rule that could meet its objectives in this rulemaking. Some of these alternatives are described below.

Insuring Revocable Trust Deposits up to $250,000 per Grantor and Irrevocable Trust Deposits up to $250,000 per Trust

The FDIC considered limiting the total amount of deposit insurance coverage for revocable trust deposits to the SMDIA (currently $250,000) for each grantor and irrevocable trust deposits up to $250,000 per trust. This would dramatically simplify the trust rules because the determination of coverage would no longer require the review of trust agreements or the consideration of beneficiaries' interests. This alternative would therefore provide significant benefits in terms of supporting the timely payment of deposit insurance. However, this would substantially reduce deposit insurance coverage for many trust deposits that currently exceed $250,000. The FDIC therefore declined to pursue this proposal.

Provide Per-Beneficiary Coverage Where Beneficiary Information Is Maintained at the IDI

The FDIC considered changing the trust rules to provide coverage of $250,000 per beneficiary for trust deposits only where the trust documentation necessary to determine insurance coverage is maintained in an IDI's deposit account records. This would promote the timely payment of deposit insurance and simplify insurance determinations, as the information required to calculate coverage would be immediately available to the FDIC following the failure of an IDI. However, such a requirement could prove burdensome and difficult to comply with for IDIs and depositors. Furthermore, even if depositors were to provide the necessary documentation to IDIs, they could be unaware as to whether the IDIs are maintaining that information in their records. Accordingly, the FDIC believes that this alternative may not promote depositor confidence in the level of coverage for their deposits.

Retain Separate Trust Categories, Harmonize Rules

The FDIC also considered harmonizing the rules for calculating coverage for revocable and irrevocable trusts while maintaining these two categories as separate for deposit insurance purposes. The use of common rules would reduce complexity to some extent. However, so long as these categories remain separate, determining the level of coverage for a trust deposit would require the threshold inquiry as to whether the trust is revocable or irrevocable. This is because the deposits in each category would still be aggregated within each deposit insurance category for purposes of applying the insurance limit. The FDIC believes that the proposed rule provides greater benefits than this alternative.

Status Quo

The FDIC is proposing amendments to the trust rules to advance the objectives discussed above, including making the rules more understandable for the public and depositors, promoting the timely payment of deposit insurance, and facilitating the administration of resolutions. The FDIC considered the status quo alternative to not amend the existing trust rules and not propose the amendments. However, for reasons previously stated in Section I.B entitled ''Background,'' the FDIC considers the proposed rule to be a more appropriate alternative.

F. Request for Comment

The FDIC is requesting comment on all aspects of the proposed rule, including the alternatives presented. Comment is specifically invited with respect to the following questions:

- Would the proposed amendments to the deposit insurance rules make insurance coverage for trust deposits easier to understand for bankers and the public?
- The FDIC believes that depositors generally would have the information necessary to readily calculate deposit insurance coverage for their trust deposits under the proposed rule, allowing them to better understand insurance coverage for their trust deposits. Are there instances where a depositor would not likely have the necessary information?
- Are there any other types of trusts not described in this proposal whose deposits would be affected by the proposed rule if adopted? What types of trusts are those and how would they be impacted?
- While the FDIC has substantial experience regarding trust arrangements, the FDIC does not possess sufficiently detailed information on depositors' existing trust arrangements to allow the FDIC to project the proposed rule's effects on current depositors. Are there any other sources of empirical information that the FDIC should consider that may be helpful in

[62] For example, if all of the beneficiaries' interests were equal, coverage would be: $250,000 × (7 beneficiaries) = $1,750,000. This is the maximum coverage possible under the current rule. Conversely, if a few beneficiaries had a large interest in the trust, the total of all beneficiaries' interests (limited to the SMDIA per beneficiary) could be less than $1,250,000, in which case the current rule would provide a minimum of $1,250,000 in coverage. Depending upon the precise allocation of interests, the amount of coverage provided would fall somewhere within this range.

understanding the effects of the proposed rule? The FDIC also encourages commenters to provide such information, if possible.

- Grandfathering of the deposit insurance rules would result in significantly greater complexity for the period of time during which two sets of rules could apply to deposits—especially in conducting resolutions. Therefore, the FDIC is not inclined to consider allowing grandfathering, but rather rely on a delayed implementation date to allow stakeholders to make necessary adjustments as a result of the new rules. However, the FDIC recognizes there are instances, such as trusts holding time deposits or other deposit relationships, which may not be easily restructured without adverse consequences to the depositor. Are there fact patterns where grandfathering the current rules may be appropriate? Would grandfathering be appropriate with respect to the proposed rule's coverage limit of $1,250,000 per IDI for a depositor's trust deposits?
- Are the examples provided clear and understandable? Are there other common trust deposit scenarios that would benefit from an example being provided?
- Would any of the alternatives described above better meet the FDIC's objectives in connection with this rulemaking? Are there any other alternatives that would better meet those objectives? Are there any other amendments to the deposit insurance rules applicable to trusts that the FDIC should consider?
- For the covered institutions subject to part 370, what cost and time frame might be required to update information technology systems and deposit account records to be capable of calculating insurance coverage under the proposed rule? The FDIC also seeks any supporting information that commenters might be able to provide on this topic.

II. Amendments to Mortgage Servicing Account Rule

A. Policy Objectives

The FDIC's regulations governing deposit insurance coverage include specific rules on deposits maintained at IDIs by mortgage servicers. These rules are intended to be easy to understand and apply in determining the amount of deposit insurance coverage for a mortgage servicer's deposits. The FDIC also seeks to avoid uncertainty concerning the extent of deposit insurance coverage for such deposits, as deposits in mortgage servicing accounts (MSAs) provide a source of funding for IDIs.

The FDIC is proposing an amendment to its rules governing insurance coverage for deposits maintained at IDIs by mortgage servicers that consist of mortgagors' principal and interest payments. The proposed rule is intended to address a servicing arrangement that is not specifically addressed in the current rules. Specifically, some servicing arrangements may permit or require servicers to advance their own funds to the lenders when mortgagors are delinquent in making principal and interest payments, and servicers might commingle such advances in the MSA with principal and interest payments collected directly from mortgagors. This may be required, for example, under certain mortgage securitizations. The FDIC believes that the factors that motivated the FDIC to establish its current rules for mortgage servicing accounts, described below, argue for treating funds advanced by a mortgage servicer in order to satisfy mortgagors' principal and interest obligations to the lender as if such funds were collected directly from borrowers.

B. Background and Need for Rulemaking

The FDIC's rules governing coverage for mortgage servicing accounts were adopted in 1990 following the transfer of responsibility for insuring deposits of savings associations from the FSLIC to the FDIC. Under the rules adopted in 1990, funds representing payments of principal and interest were insured on a pass-through basis to mortgagees, investors, or security holders. In adopting this rule, the FDIC focused on the fact that principal and interest funds were generally owned by investors, on whose behalf the servicer, as agent, accepted principal and interest payments. By contrast, payments of taxes and insurance were insured to the mortgagors or borrowers on a pass-through basis because the borrower owns such funds until tax and insurance bills are paid by the servicer.

In 2008, however, the FDIC recognized that securitization methods and vehicles for mortgages had become more complex, exacerbating the difficulty of determining the ownership of deposits consisting of principal and interest payments by mortgagors and extending the time required to make a deposit insurance determination for deposits of a mortgage servicer in the event of an IDI's failure.[63] The FDIC expressed concern that a lengthy insurance determination could lead to continuous withdrawal of deposits of principal and interest payments from IDIs and unnecessarily reduce a funding source for such institutions. The FDIC therefore amended its rules to provide coverage to lenders based on each mortgagor's payments of principal and interest into the mortgage servicing account, up to the SMDIA (currently $250,000) per mortgagor. The FDIC did not amend the rule for coverage of tax and insurance payments, which continued to be insured to each mortgagor on a pass-through basis and aggregated with any other deposits maintained by each mortgagor at the same IDI in the same right and capacity.

The 2008 amendments to the rules for mortgage servicing accounts did not provide for the fact that servicers may be required to advance their own funds to make payments of principal and interest on behalf of delinquent borrowers to the lenders. However, this is required of mortgage servicers in some instances. For example, insured depository institutions covered by 12 CFR part 370, the FDIC's rule requiring recordkeeping and information technology capabilities for deposit insurance purposes (covered institutions), identified challenges to implementing certain recordkeeping requirements with respect to MSA deposit balances as a result of the way in which servicer advances are administered and accounted.[64]

The current rule provides coverage for principal and interest funds only to the extent ''paid into the account by the mortgagors''; it does not provide coverage for funds paid into the account from other sources, such as the servicer's own operating funds, even if those funds satisfy mortgagors' principal and interest payments. As a result, advances are not provided the same level of coverage as other deposits in a mortgage servicing account consisting of principal and interest payments directly from the borrower, which are insured up to the SMDIA for each borrower. Instead, the advances are aggregated and insured to the servicer as corporate funds for a total of $250,000. The FDIC is concerned that this inconsistent treatment of principal and interest amounts could result in financial instability during times of stress, and could further complicate the insurance determination process, a result that is inconsistent with the FDIC's policy objective.

[63] *See* 73 FR 61658, 61658–59 (Oct. 17, 2008).

[64] In order to fulfill their contractual obligations with investors, covered institutions maintain mortgage principal and interest balances at a pool level and remittances, advances, advance reimbursement and excess funds applications that affect pool-level balances are not allocated back to individual borrowers.

C. Proposed Rule

The FDIC is proposing to amend the rules governing coverage for deposits in mortgage servicing accounts to provide consistent deposit insurance treatment for all MSA deposit balances held to satisfy principal and interest obligations to a lender, regardless of whether those funds are paid into the account by borrowers, or paid into the account by another party (such as the servicer) in order to satisfy a periodic obligation to remit principal and interest due to the lender. Under the proposed rule, accounts maintained by a mortgage servicer in an agency, custodial, or fiduciary capacity, which consist of payments of principal and interest, would be insured for the cumulative balance paid into the account in order to satisfy principal and interest obligations to the lender, whether paid directly by the borrower or by another party, up to the limit of the SMDIA per mortgagor. Mortgage servicers' advances of principal and interest funds on behalf of delinquent borrowers would therefore be insured up to the SMDIA per mortgagor, consistent with the coverage rules for payments of principal and interest collected directly from borrowers.[65]

The composition of an MSA attributable to principal and interest payments would also include collections by a servicer, such as foreclosure proceeds, that are used to satisfy a borrower's principal and interest obligation to the lender. In some cases, foreclosure proceeds may not be paid directly by a mortgagor. The current rule does not address whether foreclosure collections represent payments of principal and interest by a mortgagor. Under the proposed rule, foreclosure proceeds used to satisfy a borrower's principal and interest obligation would be insured up to the limit of the SMDIA per mortgagor.

The proposed rule would make no change to the deposit insurance coverage provided for mortgage servicing accounts comprised of payments from mortgagors of taxes and insurance premiums. Such aggregate escrow accounts are held separately from the principal and interest MSAs and the deposits therein are held in trust for the mortgagors until such time as tax and insurance payments are disbursed by the servicer on the borrower's behalf. Under the proposed rule, such deposits would continue to be insured based on the ownership interest of each mortgagor in the account and aggregated with other deposits maintained by the mortgagor at the same IDI in the same capacity and right.

D. Request for Comment

The FDIC is requesting comment on all aspects of the proposed rule. Comment is specifically invited with respect to the following questions:

- Would the proposed amendments to the rules governing coverage for mortgage servicing accounts adequately address servicers' practices with respect to these accounts, as described above? Are there any other funds representing principal and interest that are commingled with borrowers' payments that the FDIC should take into account in the deposit insurance calculation, consistent with its policy objectives?
- Would deposit insurance coverage of servicer principal and interest advances help to promote financial stability in the financial system? If the FDIC does not amend the rule as proposed, how would mortgage servicers react if their insured depository institution, or the banking industry as a whole, appears stressed? If so, how would funding arrangements or deposit relationships change?
- Does the proposed rule reduce the compliance burden for part 370 covered institutions?
- Are there any alternatives to the proposed rule that would better achieve the FDIC's policy objectives in connection with this rulemaking? Are there any other amendments to the deposit insurance rules applicable to MSAs that the FDIC should consider?

III. Regulatory Analysis

A. Expected Effects

1. Simplification of Trust Rules

Generally, the proposed simplification of the trust rules is expected to have benefits including clarifying depositors' and bankers' understanding of the insurance rules, promoting the timely payment of deposit insurance following an IDI's failure, facilitating the transfer of deposit relationships to failed bank acquirers (thereby potentially reducing the FDIC's resolution costs), and addressing differences in the treatment of revocable trust deposits and irrevocable trust deposits contained in the current rules. The proposed amendments would directly affect the level of deposit insurance coverage provided to some depositors with trust deposits. In some cases, which the FDIC expects are rare, the proposed amendments could reduce deposit insurance coverage; for the vast majority of depositors, the FDIC expects the coverage level to be unchanged. The FDIC has also considered the impact of any changes in the deposit insurance rules on the DIF and on the covered institutions that are subject to part 370. Finally, the FDIC describes other potential effects of the proposal, such as the effects on information technology (IT) service providers to the institutions that could be affected by the proposed rule. These effects are discussed in greater detail below.

Effects on Deposit Insurance Coverage

The proposed rule would affect deposit insurance coverage for deposits held in connection with trusts. According to the March 31, 2021 Call Report data, the FDIC insures 4,987 depository institutions[66] that report holding approximately 641 million deposit accounts. Additionally, 1,573 IDIs have powers granted by a state or national regulatory authority to administer accounts in a fiduciary capacity (*i.e.,* trust powers) and 1,167 exercise those powers, comprising 31.5 percent and 23.4 percent, respectively, of all IDIs.[67] However, individual depositors may establish a trust account at an IDI even if that IDI does not itself have or exercise trust powers, and in fact, as discussed below, 99 percent of a sample of failed banks had trust accounts. Therefore, the FDIC estimates that the proposed rule, if adopted, could affect between 1,167 and 4,987 IDIs.

The FDIC does not have detailed data on depositors' trust arrangements that would allow the FDIC to precisely estimate the number of trust accounts that are currently held by FDIC-insured institutions. However, the FDIC estimated the number of trust accounts and trust account depositors utilizing data from failed banks. Based on data from 249 failed banks[68] between 2010 and 2020, 335,657 deposit accounts—owned by 250,139 distinct depositors—were trust accounts (revocable or irrevocable), out of a total of 3,013,575 deposit accounts. Thus, about 11.14 percent of the deposit accounts at the 249 failed banks were trust accounts. Of

[65] Servicers' advances may have been insured under the rule that applied to mortgage servicing account deposits prior to 2008. Prior to 2008, mortgage servicing deposits were insured on a pass-through basis. Under the pass-through insurance rules, the identity of the party that pays funds into a deposit account does not generally factor into insurance coverage. In this sense, the proposed rule can be viewed as restoring coverage to the previous level.

[66] The count of institutions includes FDIC-insured U.S. branches of institutions headquartered in foreign countries.

[67] FDIC Call Report data, March 31, 2021.

[68] Data on failed banks comes from the FDIC's Claims Administration System, which contains data on depositors' funds from every failed IDI since September 2010.

the 249 institutions, 247 (99 percent) reported having trust accounts at time of failure. Of the 247 failed banks that reported trust accounts, 212 reported not having trust powers as of their last Call Report. Assuming the percentage of trust accounts at failed banks is representative of the percentage of trust accounts among all FDIC-insured institutions, the FDIC estimates, for purposes of this analysis, that there are approximately 71.4 million trust accounts in existence at FDIC-insured institutions.[69] Additionally, based on the observed number of trust account depositors per trust account in the population of 249 failed banks, the FDIC estimates, for purposes of this analysis, that there are approximately 53.2 million trust depositors.[70] These estimates are subject to considerable uncertainty, since the percentage of deposit accounts that are trust accounts and the number of depositors per trust account for all FDIC insured institutions may differ from what was observed at the 249 failed banks. The FDIC does not have information that would shed light on whether or how the numbers of trust accounts and trust depositors at failed banks differs from the corresponding numbers for other FDIC-insured institutions.

The FDIC also does not have detailed data on depositors' trust arrangements that would allow the FDIC to precisely estimate the quantitative effects of the proposed rule on deposit insurance coverage. Thus, the effects of the proposed changes to the insurance rules are outlined qualitatively below. The FDIC expects that most depositors would experience no change in the coverage for their deposits under the proposed rule. However, some depositors that maintain trust deposits would experience a change in their insurance coverage under the proposed rule.

The FDIC anticipates that deposit insurance coverage for some irrevocable trust deposits would increase under the proposed rule. The FDIC's experience suggests that the provisions of the current irrevocable trust rules that require the identification and aggregation of contingent interests often apply due to the inclusion of contingencies in such trusts.[71] Thus, even where an irrevocable trust names multiple beneficiaries, the current trust rules often provide a total of only $250,000 in deposit insurance coverage. The proposed rule would not consider such contingencies in the calculation of coverage, and per-beneficiary coverage would apply.

In limited instances, the proposed merger of the revocable trust and irrevocable trust categories may decrease coverage for depositors. Deposits of revocable trusts and deposits of irrevocable trusts are currently insured separately. The proposed rule would require aggregation for purposes of applying the deposit insurance limit, thereby increasing the likelihood of the combined trust account balances exceeding the insurance limit.[72] However, the FDIC's experience is that irrevocable trust deposits comprise a relatively small share of the average IDI's deposit base,[73] and that it is rare for IDIs to hold deposits in connection with irrevocable and revocable trusts established by the same grantor(s).[74] Individual grantors' trust deposits held for the benefit of up to five different beneficiaries would continue to be separately insured.

With respect to revocable and irrevocable trusts, depositors who have designated more than five beneficiaries and structured their trust accounts in a manner that provides for more than $1,250,000 in coverage per grantor, per IDI under the current rules would experience a reduction in coverage. The FDIC's experience suggests that the $1,250,000 maximum coverage amount per grantor, per IDI would not affect the vast majority of trust depositors, as most trusts have either five or fewer beneficiaries, less than $1,250,000 per grantor on deposit at the same IDI, or are structured in a manner that results in only $1,250,000 in coverage under the current rules. The FDIC estimates that approximately 21,268 trust account depositors and approximately 28,539 trust accounts could be directly affected by this aspect of the proposed rule, representing about 0.04 percent of both the estimated number of trust account depositors and the estimated number of trust accounts.[75] The actual number of trust depositors and trust accounts impacted will likely differ, as the estimates rely on data from failed banks, and failed banks may differ from other institutions in their percentages of trust depositors or trust accounts. It is also possible depositors may restructure their deposits in response to changes to the rule, thus mitigating the potential effects on deposit insurance coverage.

Clarification of Insurance Rules

The proposed merger of certain revocable and irrevocable trust categories is intended to clarify deposit insurance coverage for trust accounts. Specifically, the merger of these categories would mostly eliminate the need to distinguish revocable and irrevocable trusts currently required to determine coverage for a particular trust deposit. The benefit of the common set of rules would likely be particularly significant for depositors that have established arrangements involving multiple trusts, as they would no longer need to apply two different sets of rules to determine the level of deposit insurance coverage that would apply to their deposits. For example, the

[69] There were approximately 641 million deposit accounts reported by FDIC-insured institutions as of March 31, 2021, based on Call Report data. Assuming that 11.14 percent of accounts are trust accounts, then there are an estimated 71.4 million trust accounts as of March 31, 2021.

[70] Using the data from failed banks, 250,139 distinct depositors held 335,657 revocable or irrevocable trust accounts, or there were 0.745 trust account depositors per trust account (250,139 divided by 335,657). The estimated number of trust depositors at FDIC-insured institutions (53.2 million) is obtained by multiplying the estimated number of trust accounts by the number of trust account depositors per trust account (71.4 million multiplied by 0.745).

[71] As discussed above, the provisions relating to contingent interests may not apply when a trust has become irrevocable due to the death of one or more grantors. In such instances, the revocable trust rules continue to apply.

[72] As discussed above, deposits maintained by an IDI as trustee of an irrevocable trust would not be included in this aggregation, and would remain separately insured pursuant to section 7(i) of the FDI Act and 12 CFR 330.12.

[73] Data obtained in connection with IDI failures during the recent financial crisis suggests that irrevocable trust deposits comprise less than one percent of trust deposits. However, as discussed above, the FDIC does not possess sufficient information to enable it to estimate the effects of the proposed rule on trust account depositors at all IDIs.

[74] In the data obtained in connection with IDI failures during the recent financial crisis, only 51 out of 250,139 depositors with trust accounts had both revocable and irrevocable types. Of these 51 depositors, nine had total trust account balances greater than $250,000, and only one had a total trust balance of more than $1.25 million.

[75] To estimate the numbers of trust account depositors and trust accounts affected, the FDIC performed the following calculation. First, based on data from 249 failed banks between 2010 and 2020, the FDIC determined that there were 335,657 trust accounts out of 3,013,575 deposit accounts (trust account share). Second, the FDIC determined the number of trust accounts per trust depositor (335,657/250,139). The FDIC then estimated the number of trust accounts by multiplying the trust account share (335,657/3,013,575) by the number of deposit accounts across all IDIs (640,918,226) according to March 31, 2021, Call Report data. This step yielded an estimate of 71,386,539 trust accounts. Based on the estimated number of trust accounts per trust depositor from the failed bank data, the FDIC estimated the total number of trust depositors to be 53,198,823. Using failed bank data, 100 out of 250,139 trust depositors had balances in excess of $1.25 million in their trust accounts. Thus, the FDIC estimated that, of the approximately 53.2 million trust depositors, (100/250,139) of them—approximately 21,268—had balances in excess of $1.25 million in their trust accounts, and therefore could be directly affected by the proposal. These estimated 21,268 trust depositors are associated with an estimated 28,539 trust accounts, based on the observed number of trust accounts per trust depositor from the data from 249 failed banks between 2010 and 2020.

proposed rule would eliminate the need to consider the specific allocation of interests among the beneficiaries of revocable trusts with six or more beneficiaries, as well as contingencies established in irrevocable trusts. The merger of the categories also would eliminate the need for current § 330.10(h) and (i), which allows for the continued application of the revocable trust rules to the account of a revocable trust that becomes irrevocable due to the death of the trust's owner. As previously discussed, these provisions of the current trust rules have proven confusing as illustrated by the numerous inquiries that are consistently submitted to the FDIC on these topics.

FDIC-insured depository institutions will incur some regulatory costs associated with making necessary changes to internal processes and systems and bank personnel training in order to accommodate the proposed rule's definition of ''trust accounts'' and attendant deposit insurance coverage terms, if adopted. There also may be some initial cost for institutions to become familiar with the proposed changes to the trust insurance coverage rules in order to be able to explain them to potential trust customers, counterbalanced to some extent by the fact that the proposed rules should be simpler for institutions to understand and explain going forward. As the business impacts and costs associated with operationalizing the proposed changes to the trust rules may vary significantly across IDIs, the FDIC would welcome industry comments in this regard.

Prompt Payment of Deposit Insurance

The FDIC also expects that simplification of the trust rules would promote the timely payment of deposit insurance in the event of an IDI's failure. The FDIC's experience has been that the current trust rules often require detailed, time-consuming, and resource-intensive review of trust documentation to obtain the information that is necessary to calculate deposit insurance coverage. This information is often not found in an IDI's records and must be obtained from depositors after the IDI's failure. The proposed rule would ameliorate the operational challenge of calculating deposit insurance coverage, which could be particularly acute in the case of a failure of a large IDI with a large number of trust accounts. The proposed rule would streamline the review of trust documents required to make a deposit insurance determination, promoting more prompt payment of deposit insurance. Timely payment of deposit insurance also can help to facilitate the transfer of depositor relationships to a failed bank's acquirer, potentially expand resolution options, potentially reduce the FDIC's resolution costs, and support greater confidence in the banking system.

Deposit Insurance Fund Impact

As discussed above, the proposed rule is expected to have mixed effects on the level of insurance coverage provided for trust deposits. Coverage for some irrevocable trust deposits would be expected to increase, but in the FDIC's experience, irrevocable trust deposits are not nearly as common as revocable trust deposits. The level of coverage for some trust deposits would be expected to decrease due to the proposed rule's simplified calculation of coverage and its aggregation of revocable and irrevocable trust deposits. As noted above, the FDIC does not have detailed data on depositors' trust arrangements to allow it to precisely project the quantitative effects of the proposed rule on deposit insurance coverage.

Indirect Effects

A change in the level of deposit insurance coverage does not necessarily result in a direct economic impact, as deposit insurance is only paid to depositors in the event of an IDI's failure. However, changes in deposit insurance coverage may prompt depositors to take actions with respect to their deposits. In response to changes in the level of coverage under the proposed rules, trust depositors could maximize coverage relative to the coverage under the current rule by transferring some of their trust deposits to other types of accounts that provide similar or higher amounts of coverage or by amending the terms of their trusts. Parties affected could include IDIs, depositors, and other firms in the financial services marketplace (*e.g.,* deposit brokers). Any costs borne by the depositor in moving a portion of the funds to a different IDI to stay under the insurance limit would be accompanied by benefits, such as more prompt deposit insurance determinations, and quicker access to insured deposits for depositors during the resolution process. The FDIC cannot estimate these effects because it does not have information on the individual costs of each action that confronts each depositor, their ability to amend their trust structure or move funds, and their subjective risk preference with respect to holding insured and uninsured deposits.

Part 370 Covered Institutions

As discussed previously, institutions covered by part 370 must maintain deposit account records and systems capable of applying the deposit insurance rules in an automated manner. The proposed rule would change certain aspects of how coverage is determined for trust deposits. This could require covered institutions to reprogram certain systems to ensure that they continue to be capable of applying the deposit insurance rules as part 370 requires. A covered institution is not considered to be in violation of part 370 as a result of a change in law that alters the availability or calculation of deposit insurance for such period as specified by the FDIC following the effective date of such change.[76]

The FDIC expects that the proposed rule would make the deposit insurance status of a trust account generally clearer. Moreover, since part 370 requires covered institutions to develop and maintain the capacity to calculate deposit insurance for its deposits, the proposed rule could make compliance with part 370 relatively less burdensome. This is because the underlying rules that would be applied to most trust deposits would be simplified. In particular, the proposed rule would require the aggregation of revocable and irrevocable trust deposits, categories that are currently separated for purposes of part 370's recordkeeping provisions. The FDIC does not expect that the proposed rule would require significant changes with respect to covered institutions' treatment of informal revocable trust deposits. Moreover, many deposits of formal revocable trusts and irrevocable trusts currently fall within the scope of part 370's alternative recordkeeping provisions, meaning that covered institutions are not required to maintain all of the records necessary to calculate the maximum amount of deposit insurance coverage available for these deposits. These factors may diminish the impact of the proposed rule on the part 370 covered institutions, but the FDIC does not have sufficient information on covered institutions' systems and records to quantify this.

Although the FDIC does not have sufficient information to determine the time that might be required to reprogram systems, it believes that a two-year period of time may be reasonable. The FDIC requests comment on this proposal, including any information that commenters may be able to provide to support their views

[76] *See* 12 CFR 370.10(d).

on the time necessary to attain compliance with part 370 if the proposed rule is adopted.

Other Potential Effects

Although the FDIC expects that coverage for most trust depositors would be unchanged under the proposal, and that the proposed changes simplify the FDIC's insurance rules for trust accounts, the proposal may have other potential effects. For example, the institutions affected by the proposal may rely on third-party IT service providers to perform insurance coverage estimates for their trust depositors. The proposal may lead such IT service providers to revise their systems to account for the proposal's changes.

2. Amendments to Mortgage Servicing Account Rule

The proposed rule would affect the deposit insurance coverage for certain principal and interest payments within MSA deposits maintained at IDIs by mortgage servicers. According to the March 31, 2021 Call Report data, the FDIC insures 4,987 IDIs.[77] Of the 4,987 IDIs, 1,167 IDIs (23.4 percent) report holding mortgage servicing assets, which indicates that they service mortgage loans and could thus be affected by the proposed rule. In addition, mortgage servicing accounts may be maintained at IDIs that do not themselves service mortgage loans. The FDIC does not know how many IDIs are recipients of mortgage servicing account deposits, but believes that most IDIs are not. Therefore, the FDIC estimates that the number of IDIs potentially affected by the proposed rule, if adopted, would be greater than 1,167 and substantially less than 4,987.

The FDIC does not have detailed data on MSAs that would allow the FDIC to reliably estimate the number of MSAs maintained at IDIs that would be affected by the proposed rule, or any potential change in the total amount of insured deposits. Thus, the potential effects of the proposed amendments regarding governing deposit insurance coverage for MSAs are outlined qualitatively below.

The proposed rule would directly affect the level of deposit insurance coverage provided for some MSAs. Under the proposed rule, the composition of an MSA attributable to mortgage servicers' advances of principal and interest funds on behalf of delinquent borrowers and collections such as foreclosure proceeds would be insured up to the SMDIA per mortgagor, consistent with the coverage for payments of principal and interest collected directly from borrowers. Under the current rules, principal and interest funds advanced by a servicer to cover delinquencies, and foreclosure proceeds collected by servicers, are not be insured under the rules for MSA deposits, but instead are insured to the servicer as corporate funds up to the SMDIA. Therefore, the proposed rule would expand deposit insurance coverage in instances where an account maintained by a mortgage servicer contains principal and interest funds advanced by the servicer in order to satisfy the obligations of delinquent borrowers to the lender, or foreclosure proceeds collected by the servicers; and where the funds in such instances exceed the mortgage servicer's SMDIA.

If enacted, the proposed rule is likely to benefit a servicer compelled by the terms of a pooling and servicing agreement to advance principal and interest funds to note holders when a borrower is delinquent, and therefore the servicer has not received such funds from the borrower. In the event that the IDI hosting the MSA for the servicer fails, the proposal reduces the likelihood that the funds advanced by the servicer are uninsured, and thereby facilitates access to, and helps avoids losses of, those funds. As previously discussed, the FDIC does not have detailed data on MSAs held at IDIs, pooling and servicing agreements for outstanding mortgage loans, or servicer payments into MSAs that would allow the FDIC to reliably estimate the number of, and volume of funds within, MSAs maintained at IDIs that would be affected by the proposed rule.

Further, the proposed rule is likely to benefit an IDI who is hosting an MSA for a servicer that is compelled by the terms of a pooling and servicing agreement to advance principal and interest funds to note holders on behalf of delinquent borrowers by increasing the volume of insured funds. In the event that the IDI enters into a troubled condition, the proposed rule could marginally increase the stability of MSA deposits from such servicers, thereby increasing the general stability of funding.

Finally, the FDIC believes that the proposed rule, if enacted, would pose general benefits to parties that provide or utilize financial services related to mortgage products by amending an inconsistency in the deposit insurance treatment for principal and interest payments made by the borrower and such payments made by the servicer on behalf of the borrower.

Effects on Part 370 Covered Institutions

Institutions subject to the enhanced requirements of part 370 may bear some costs in recognizing the expanded coverage for servicer advances and foreclosure proceeds. However, institutions subject to the requirements of part 370 already are responsible for determining coverage for MSA accounts based on each borrower's payments. Therefore, the FDIC does not believe the impact of the proposal on part 370 covered IDIs will be significant.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[78] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[79] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for small entities. The FDIC does not believe that the proposed rule, if adopted, will have a significant economic effect on a substantial number of small entities. However, some expected effects of the proposed rule are difficult to assess or accurately quantify given current information, therefore the FDIC has included an Initial Regulatory Flexibility Act Analysis in this section.

[77] The count of institutions includes FDIC-insured U.S. branches of institutions headquartered in foreign countries.

[78] 5 U.S.C. 601 *et seq.*

[79] The SBA defines a small banking organization as having $600 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is ''small'' for the purposes of RFA.

1. Simplification of Trust Rules

Reasons Why This Action Is Being Considered

As previously discussed, the rules governing deposit insurance coverage for trust deposits have been amended on several occasions, but still frequently cause confusion for depositors. Under the current regulations, there are distinct and separate sets of rules applicable to deposits of revocable trusts and irrevocable trusts. Each set of rules has its own criteria for coverage and methods by which coverage is calculated. Despite the FDIC's efforts to simplify the revocable trust rules in 2008,[80] over the last 10 years, FDIC deposit insurance specialists have responded to approximately 20,000 complex insurance inquiries per year on average. More than 50 percent pertain to deposit insurance coverage for trust accounts (revocable or irrevocable). The consistently high volume of complex inquiries about trust accounts over an extended period of time suggests continued confusion about insurance limits.

The FDI Act requires the FDIC to pay depositors ''as soon as possible'' after a bank failure. However, the insurance determination and subsequent payment for many trust deposits can be delayed while FDIC staff reviews complex trust agreements and apply the rules for determining deposit insurance coverage. Moreover, in many of these instances, deposit insurance coverage for trust deposits is based upon information that is not maintained in the failed IDI's deposit account records. This requires FDIC staff to work with depositors, trustees, and other parties to obtain trust documentation following an IDI's failure in order to complete deposit insurance determinations. The difficulties associated with this are exacerbated by the substantial growth in the use of formal trusts in recent decades. For example, following the 2008 failure of IndyMac Federal Bank, FSB (IndyMac), FDIC claims personnel contacted more than 10,500 IndyMac depositors to obtain the trust documentation necessary to complete deposit insurance determinations for their revocable trust and irrevocable trust deposits. As noted previously, delays in the payment of deposit insurance could be consequential, as revocable trust deposits in particular can be used by depositors to satisfy their daily financial obligations.

Policy Objectives

As discussed previously, the proposed amendments are intended to provide depositors and bankers with a rule for trust account coverage that is easy to understand, and also to facilitate the prompt payment of deposit insurance in accordance with the FDI Act. The FDIC believes that accomplishing these objectives also would further the agency's mission in other respects. Specifically, the proposed amendments would promote depositor confidence and further the FDIC's mission to maintain stability and promote public confidence in the U.S. financial system by assisting depositors to more readily and accurately determine their insurance limits. The proposed changes will also facilitate the resolution of failed IDIs in a least costly manner. The proposed amendments could reduce the FDIC's reliance on trust documentation (which could be difficult to obtain in a timely manner during resolutions of IDI failures) and provide greater flexibility to automate deposit insurance determinations, thereby reducing potential delays in the completion of deposit insurance determinations and payments. Finally, in proposing amendments to the trust rules, the FDIC's intent is that the changes would generally be neutral with respect to the DIF.

Legal Basis

The FDIC's deposit insurance categories have been defined through both statute and regulation. Certain categories, such as the government deposit category, have been expressly defined by Congress.[81] Other categories, such as joint deposits and corporate deposits, have been based on statutory interpretation and recognized through regulations issued in 12 CFR part 330 pursuant to the FDIC's rulemaking authority. In addition to defining the insurance categories, the deposit insurance regulations in part 330 provide the criteria used to determine insurance coverage for deposits in each category. The FDIC proposes to amend § 330.10 of its regulations, which currently applies only to revocable trust deposits, to establish a new ''trust accounts'' category that would include both revocable and irrevocable trust deposits. For a more detailed discussion of the proposal's legal basis please refer to Section I.C entitled ''Description of Proposed Rule.''

The Proposed Rule

The FDIC is proposing to amend the rules governing deposit insurance coverage for trust deposits. Generally, the proposed amendments would: Merge the revocable and irrevocable trust categories into one category; apply a simpler, common calculation method to determine insurance coverage for deposits held by revocable and irrevocable trusts; eliminate certain requirements found in the current rules for revocable and irrevocable trusts; and amend certain recordkeeping requirements for trust accounts. For a more detailed discussion of the proposed rule please refer to Section I.C entitled ''Description of Proposed Rule.''

Small Entities Affected

Based on the March 31, 2021 Call Report data, the FDIC insures 4,987 depository institutions,[82] of which 3,431 are considered small entities for the purposes of RFA.[83] Of the 3,431 small IDIs, 826 have powers granted by a state or national regulatory authority to administer accounts in a fiduciary capacity and 567 exercise those powers, comprising 24.1 percent and 16.5 percent, respectively, of small IDIs.[84] However, individuals may establish trust accounts at an IDI even if that IDI does not itself have or exercise authority to administer accounts in a fiduciary capacity, and in fact, as noted earlier, 99 percent of a sample of failed banks had trust accounts. Therefore, the FDIC estimates that the proposed rule, if adopted, could affect between 567 and 3,431 small, FDIC-insured institutions.

As noted in the *Aggregation* subsection of Section I.C ''Description of Proposed Rule,'' the FDIC does not have detailed data on depositors' trust arrangements for trust accounts held at small FDIC-insured institutions. Therefore, it is difficult to accurately estimate the number of small IDIs that would be potentially affected by the proposed rule. However, the FDIC believes that the number of small IDIs that will be directly affected by the proposal is likely to be small, given that in the agency's resolution experience only a small number of trust accounts have balances above the proposed coverage limit of $1,250,000 per grantor, per IDI for trust deposits. For example, data obtained from a sample of 249 IDIs that failed between 2010 and 2020 show that only 100 depositors out of 250,139 (or 0.04 percent) had trust account balances greater than $1.25 million; at small IDIs, 18 out of 34,304 depositors (or 0.05 percent) had trust account

[80] *See* 73 FR 56706 (Sep. 30, 2008).

[81] 12 U.S.C. 1821(a)(2).

[82] The count of institutions includes FDIC-insured U.S. branches of institutions headquartered in foreign countries.

[83] FDIC Call Report data, March 31, 2021.

[84] Id.

balances greater than $1.25 million.[85] The data from failed banks suggest small IDIs could be affected by the proposal roughly in proportion to the share of trust depositors with account balances greater than $1.25 million at IDIs of all sizes which failed between 2010 and 2020.

Expected Effects

The proposed simplification of the deposit insurance rules for trust deposits is expected to have a variety of effects. The proposed amendments would directly affect the level of deposit insurance coverage provided to some depositors with trust deposits. In addition, simplification of the rules is expected to have benefits in terms of promoting the timely payment of deposit insurance following a small IDI's failure, facilitating the transfer of deposit relationships to failed bank acquirers with consequent potential reductions to the FDIC's resolution costs, and addressing differences in the treatment of revocable trust deposits and irrevocable trust deposits contained in the current rules. The FDIC has also considered the impact of any changes in the deposit insurance rules on the DIF and other potential effects.[86] These effects are discussed in greater detail in Section III.A entitled ''Expected Effects.''

Overall, due to the fact that the FDIC expects most small IDIs to have only a small number of trust accounts with balances above the proposed coverage limit of $1,250,000 per grantor, per IDI for trust deposits, effects on the deposit insurance coverage of small entities' customers are likely to be small. There also may be some initial cost for small entities to become familiar with the proposed changes to the trust insurance coverage rules in order to be able to explain them to potential trust customers, counterbalanced to some extent by the fact that the proposed rules should be simpler to understand and explain going forward. As the business impacts and costs associated with operationalizing the proposed changes to the trust rules may vary significantly across IDIs, the FDIC would welcome industry comments in this regard.

[85] Whether a failed IDI is considered small is based on data from its four quarterly Call Reports prior to failure.

[86] The FDIC has also considered the impact of any changes in the deposit insurance rules on the covered institutions that are subject to part 370. As described previously, part 370 affects IDIs with two million or more deposit accounts. Based on Call Report data as of March 31, 2021, the FDIC does not insure any institutions with two million or more deposit accounts that are also considered small entities.

Alternatives Considered

The FDIC has considered a number of alternatives to the proposed rule that could meet its objectives in this rulemaking. However, for reasons previously stated in Section I.E ''Alternatives Considered,'' the FDIC considers the proposed rule to be a more appropriate alternative.

The FDIC also considered the status quo alternative to not amend the existing trust rules. However, for reasons previously stated in Section I.E ''Alternatives Considered,'' the FDIC considers the proposed rule to be a more appropriate alternative.

Other Statutes and Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposal and any other federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would the proposal have any significant effects on small entities that the FDIC has not identified?

2. Amendments to Mortgage Servicing Account Rule

Reasons Why This Action Is Being Considered

As previously discussed, the FDIC provides coverage, up to the SMDIA for each borrower, for principal and interest funds in MSAs only to the extent ''paid into the account by the mortgagors,'' and does not provide coverage for funds paid into the account from other sources, such as the servicer's own operating funds, even if those funds satisfy mortgagors' principal and interest payments under the current rules. The advances are aggregated and insured to the servicer as corporate funds for a total of $250,000. Under some servicing arrangements, however, mortgage servicers may be required to advance their own funds to make payments of principal and interest on behalf of delinquent borrowers to the lenders in certain circumstances. Thus, under the current rules, such advances are not provided the same level of coverage as other deposits in a mortgage servicing account comprised of principal and interest payments directly from the borrower. This could result in delayed access to certain funds in an MSA, or to the extent that aggregated advances insured to the servicer exceed the insurance limit, loss of such funds, in the event of an IDI's failure. The FDIC is therefore proposing to amend its rules governing coverage for deposits in mortgage servicing accounts to address this inconsistency.

Policy Objectives

As discussed previously, the FDIC's regulations governing deposit insurance coverage include specific rules on deposits maintained at IDIs by mortgage servicers. With the proposed amendments, the FDIC seeks to address an inconsistency concerning the extent of deposit insurance coverage for such deposits, as in the event of an IDI's failure the current rules could result in delayed access to certain funds in a mortgage servicing account (MSA) that have been aggregated and insured to a mortgage servicer, or to the extent that aggregated funds insured to a servicer exceed the insurance limit, loss of such funds.

The proposed rule is intended to address a servicing arrangement that is not specifically addressed in the current rules. Specifically, some servicing arrangements may permit or require servicers to advance their own funds to the lenders when mortgagors are delinquent in making principal and interest payments, and servicers might commingle such advances in the MSA with principal and interest payments collected directly from mortgagors. This may be required, for example, under certain mortgage securitizations. The FDIC believes that the factors that motivated the FDIC to establish its current rules for MSAs, described previously, argue for treating funds advanced by a mortgage servicer in order to satisfy mortgagors' principal and interest obligations to the lender as if such funds were collected directly from borrowers.

Legal Basis

The FDIC's deposit insurance categories have been defined through both statute and regulation. Certain categories, such as the government deposit category, have been expressly defined by Congress. Other categories, such as joint deposits and corporate deposits, have been based on statutory interpretation and recognized through regulations issued in 12 CFR part 330 pursuant to the FDIC's rulemaking authority. In addition to defining the insurance categories, the deposit insurance regulations in part 330 provide the criteria used to determine insurance coverage for deposits in each category. The FDIC proposes to amend § 330.7(d) of its regulations, which currently applies only to cumulative balance paid by the mortgagors into an MSA maintained by a mortgage servicer, to include balances paid in to the account to satisfy mortgagors' principal or interest obligations to the lender. For a more detailed discussion of the

proposal's legal basis please refer to Section II.C, entitled ''Proposed Rule.''

The Proposed Rule

The FDIC is proposing to amend the rules governing deposit insurance coverage for deposits maintained at IDIs by mortgage servicers. Generally, the proposed amendment would provide consistent deposit insurance treatment for all MSA deposit balances held to satisfy principal and interest obligations to a lender, regardless of whether those funds are paid into the account by borrowers, or paid into the account by another party (such as the servicer) in order to satisfy a periodic obligation to remit principal and interest due to the lender. The composition of an MSA attributable to principal and interest payments would include mortgage servicers' advances of principal and interest funds on behalf of delinquent borrowers, and collections by a servicer such as foreclosure proceeds. The proposed rule would make no change to the deposit insurance coverage provided for mortgage servicing accounts comprised of payments from mortgagors of taxes and insurance premiums. For a more detailed discussion of the proposed rule please refer to Section II.C, entitled ''Proposed Rule.''

Small Entities Affected

Based on the March 31, 2021 Call Report data, the FDIC insures 4,987 depository institutions, of which 3,431 are considered small entities for the purposes of RFA. Of the 3,431 small IDIs, 491 IDIs (14.3 percent) report holding mortgage servicing assets, which indicates that they service mortgage loans and could thus be affected by the proposed rule. However, mortgage servicing accounts may be maintained at small IDIs that do not themselves service mortgage loans. The FDIC does not know how many IDIs that are small entities are recipients of mortgage servicing account deposits, but believes that most such entities are not because there are relatively few mortgage servicers.[87] Therefore, the FDIC estimates that the number of small IDIs potentially affected by the proposed rule, if adopted, would be between 491 and 3,431, but believes that the number is close to the lower end of the range.

As noted in Section III.A, titled ''Expected Effects,'' the FDIC does not have detailed data on MSAs that would allow the FDIC to reliably estimate the number of MSAs maintained at IDIs that would be affected by the proposed rule, or any potential change in the total amount of insured deposits. Therefore, it is difficult to accurately estimate the number of small IDIs that would be potentially affected by the proposed rule.

Expected Effects

The proposed rule would directly affect the level of deposit insurance coverage for certain funds within MSAs. If enacted, the proposed rule is likely to benefit a servicer compelled by the terms of a pooling and servicing agreement to advance principal and interest funds to note holders when a borrower is delinquent, and therefore the servicer has not received such funds from the borrower. In the event that the IDI hosting the MSA for the servicer fails, the proposal reduces the likelihood that the funds advanced by the servicer are uninsured, and thereby facilitates access to, and helps avoids losses of, those funds. As previously discussed, the FDIC does not have detailed data on MSAs held at IDIs, pooling and servicing agreements for outstanding mortgage loans, or servicer payments into MSAs that would allow the FDIC to reliably estimate the number of, and volume of funds within, MSAs maintained at IDIs that would be affected by the proposed rule.

Further, the proposed rule is likely to benefit a small IDI who is hosting an MSA for a servicer that is compelled by the terms of a pooling and servicing agreement to advance principal and interest funds to note holders on behalf of delinquent borrowers by increasing the volume of insured funds. In the event that the small IDI enters into a troubled condition, the proposed rule could marginally increase the stability of MSA deposits from such servicers, thereby increasing the general stability of funding.

Based on the preceding information the FDIC believes that the proposed rule, if enacted, is unlikely to have a significant economic effect on a substantial number of small entities.

Alternatives Considered

The FDIC is proposing revisions to the deposit insurance rules for MSAs to advance the objectives discussed above. The FDIC considered the status quo alternative to not revise the existing rules for MSAs and not propose the revisions. However, for reasons previously stated in Section II.B, entitled ''Background and Need for Rulemaking,'' the FDIC considers the proposed rule to be a more appropriate alternative. Were the FDIC to not propose the revisions, then in the event of an IDI's failure the current rules could result in delayed access to certain funds in an MSA that have been aggregated and insured to a mortgage servicer, or to the extent that aggregated funds insured to a servicer exceed the insurance limit, loss of such funds.

Other Statutes and Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposal and any other federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would the proposal have any significant effects on small entities that the FDIC has not identified?

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has determined that this proposed rule does not create any new, or revise any existing, collections of information under section 3504(h) of the Paperwork Reduction Act (PRA). Consequently, no information collection request will be submitted to the OMB for review. The FDIC invites comment on its PRA determination.

D. Riegle Community Development and Regulatory Improvement Act

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[88] Subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall

[87] According to the U.S. Census Bureau within the ''Other Activities Related to Credit Intermediation'' (NAICS 522390) national industry where mortgage servicers are captured there were 3,595 firms in 2018, relative to the 37,627 firms in the Credit Intermediation and Related Activities subsector (NAICS 522).

[88] 12 U.S.C. 4802(a).

take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.[89]

The proposed rule would not impose additional reporting or disclosure requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. Accordingly, section 302 of RCDRIA does not apply. Nevertheless, the requirements of RCDRIA will be considered as part of the overall rulemaking process, and the FDIC invites comments that will further inform its consideration of RCDRIA.

E. Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999.[90]

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[91] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated above, the Federal Deposit Insurance Corporation proposes to amend part 330 of title 12 of the Code of Federal Regulations as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

■ 1. The authority citation for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

§ 330.1 [Amended]

■ 2. Amend § 330.1 by removing and reserving paragraphs (m) and (r).

■ 3. Revise § 330.7(d) to read as follows:

§ 330.7 Accounts held by an agent, nominee, guardian, custodian or conservator.

* * * * *

(d) *Mortgage servicing accounts.* Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments of principal and interest, shall be insured for the cumulative balance paid into the account by mortgagors, or in order to satisfy mortgagors' principal or interest obligations to the lender, up to the limit of the SMDIA per mortgagor. Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of taxes and insurance premiums shall be added together and insured in accordance with paragraph (a) of this section for the ownership interest of each mortgagor in such accounts.

* * * * *

■ 4. Revise § 330.10 to read as follows:

§ 330.10 Trust accounts.

(a) *Scope and definitions.* This section governs coverage for deposits held in connection with informal revocable trusts, formal revocable trusts, and irrevocable trusts not covered by § 330.12 (''trust accounts''). For purposes of this section:

(1) *Informal revocable trust* means a trust under which a deposit passes directly to one or more beneficiaries upon the depositor's death without a written trust agreement, commonly referred to as a payable-on-death account, in-trust-for account, or Totten trust account.

(2) *Formal revocable trust* means a revocable trust established by a written trust agreement under which a deposit passes to one or more beneficiaries upon the grantor's death.

(3) *Irrevocable trust* means an irrevocable trust established by statute or a written trust agreement and not otherwise insured as described in § 330.12.

(b) *Calculation of coverage*—(1) *General calculation.* Each grantor's trust deposits are insured in an amount up to the SMDIA multiplied by the total number of beneficiaries identified by the grantor, up to a maximum of 5 beneficiaries.

(2) *Aggregation for purposes of insurance limit.* Trust deposits that pass from the same grantor to beneficiaries are aggregated for purposes of determining coverage under this section, regardless of whether those deposits are held in connection with an informal revocable trust, formal revocable trust, or irrevocable trust.

(3) *Separate insurance coverage.* The deposit insurance coverage provided under this section is separate from coverage provided for other deposits at the same insured depository institution.

(4) *Equal allocation presumed.* Unless otherwise specified in the deposit account records of the insured depository institution, a deposit held in connection with a trust established by multiple grantors is presumed to have been owned or funded by the grantors in equal shares.

(c) *Number of beneficiaries.* For purposes only of determining the total number of beneficiaries for a trust deposit under paragraph (b) of this section:

(1) *Eligible beneficiaries.* Subject to paragraph (c)(2) of this section, beneficiaries include natural persons, as well as charitable organizations and other non-profit entities recognized as such under the Internal Revenue Code of 1986, as amended.

(2) *Ineligible beneficiaries.* Beneficiaries do not include:

(i) The grantor of a trust; or

(ii) A person or entity that would only obtain an interest in the deposit if one or more named beneficiaries are deceased.

(3) *Future trust(s) named as beneficiaries.* If a trust agreement provides that trust funds will pass into one or more new trusts upon the death of the grantor(s), the future trust(s) are not treated as beneficiaries of the trust; rather, the future trust(s) are viewed as mechanisms for distributing trust funds, and the beneficiaries are the natural persons or organizations that shall receive the trust funds through the future trusts.

(4) *Informal trust account payable to depositor's formal trust.* If an informal revocable trust designates the depositor's formal trust as its beneficiary, the informal revocable trust account will be treated as if titled in the name of the formal trust.

[89] 12 U.S.C. 4802(b).

[90] Public Law 105–277, 112 Stat. 2681 (Oct. 21, 1998).

[91] Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999).

(d) *Deposit account records*—(1) *Informal revocable trusts.* The beneficiaries of an informal revocable trust must be specifically named in the deposit account records of the insured depository institution.

(2) *Formal revocable trusts.* The title of a formal trust account must include terminology sufficient to identify the account as a trust account, such as ''family trust'' or ''living trust,'' or must otherwise be identified as a testamentary trust in the account records of the insured depository institution. If eligible beneficiaries of such formal revocable trust are specifically named in the deposit account records of the insured depository institution, the FDIC shall presume the continued validity of the named beneficiary's interest in the trust consistent with § 330.5(a).

(e) *Commingled deposits of bankruptcy trustees.* If a bankruptcy trustee appointed under title 11 of the United States Code commingles the funds of various bankruptcy estates in the same account at an insured depository institution, the funds of each title 11 bankruptcy estate will be added together and insured up to the SMDIA, separately from the funds of any other such estate.

(f) *Deposits excluded from coverage under this section*—(1) *Revocable trust co-owners that are sole beneficiaries of a trust.* If the co-owners of an informal or formal revocable trust are the trust's sole beneficiaries, deposits held in connection with the trust are treated as joint ownership deposits under § 330.9.

(2) *Employee benefit plan deposits.* Deposits of employee benefit plans, even if held in connection with a trust, are treated as employee benefit plan deposits under § 330.14.

(3) *Investment company deposits.* This section shall not apply to deposits of trust funds belonging to a trust classified as a corporation under § 330.11(a)(2).

(4) *Insured depository institution as trustee of an irrevocable trust.* Deposits held by an insured depository institution in its capacity as trustee of an irrevocable trust are insured as provided in § 330.12.

§ 330.13 [Removed and Reserved]

■ 5. Remove and reserve § 330.13.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on July 20, 2021.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–15732 Filed 8–2–21; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0602; Project Identifier 2019–CE–022–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH 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 Diamond Aircraft Industries GmbH Models DA 42, DA 42 NG, and DA 42 M–NG airplanes. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failure of the nose landing gear (NLG) actuator attachment lever and detachment from the NLG leg. This proposed AD would require repetitively inspecting the NLG actuator attachment lever for cracks and damage and taking any necessary corrective actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by September 17, 2021.

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 *https://www.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 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: *https://www.diamondaircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust St, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0602; 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 MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

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:

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–2021–0602; Project Identifier 2019–CE–022–AD'' 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 *https://www.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 Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249. 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 2019–0066, dated March 27, 2019 (referred to after this as ''the MCAI''), to correct an unsafe condition for Diamond Aircraft Industries GmbH (Austria) and Diamond Aircraft Industries Inc. (Canada) Model DA 42, DA 42 M, DA 42 NG, and DA 42 M–NG airplanes. The MCAI states:

> An occurrence was reported of a failed NLG actuator attachment lever, resulting in disconnection from the NLG leg. When the landing gear (LG) was retracted, the NLG actuator interfered with the rudder control rods, forcing the rudder into left-hand deflection. After lowering the LG, full rudder control was restored. The investigation results showed that the actuator lever failed due to a crack that had developed over a longer time period.
>
> This condition, if not detected and corrected, could lead to restricted rudder travel in LG retracted configuration, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, [Diamond Aircraft Industries] DAI issued the applicable [mandatory service bulletin] MSB, providing instructions to inspect the affected part.
>
> For the reason described above, this [EASA] AD requires repetitive inspections of the NLG leg actuator attachment lever and, depending on findings, replacement of the NLG leg.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0602.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Industries Work Instruction WI–MSB 42–136 and WI–MSB 42NG–078, Revision 1, dated January 24, 2019 (published as one document with Mandatory Service Bulletin MSB 42–136/1 and MSB 42NG–078, dated January 24, 2019). This service information provides instructions for repetitively inspecting the NLG actuator attachment lever with replacement of the NLG leg assembly as necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining 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 accomplishing the actions specified in the service information already described.

Differences Between This Proposed AD and the MCAI

The MCAI applies to Models DA 42, DA 42 M, DA 42 NG, and DA 42 M–NG airplanes. This proposed AD would not apply to the Model DA 42 M because they do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 40 airplanes of U.S. registry. The FAA also estimates that it would take about 1 work-hour per airplane to comply with the inspection requirement of this proposed AD, and no parts would be necessary. Based on these figures, the FAA estimates the cost of the inspection for U.S. operators to be $3,400, or $85 per airplane.

In addition, the FAA estimates that any necessary replacement actions would take about 6 work-hours and require parts costing $1,500, for a cost of $2,010 per airplane. The FAA has no way of determining the number of airplanes that may need these actions.

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:

Diamond Aircraft Industries GmbH: Docket No. FAA–2021–0602; Project Identifier 2019–CE–022–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42, DA 42 NG, and DA 42 M–NG airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 3221, Nose/Tail Landing Gear Attach Section.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failure of the nose landing gear (NLG) actuator attachment lever and detachment from the NLG leg. The FAA is issuing this AD to detect and correct cracks in the NLG actuator attachment lever, which could result in restricted rudder travel with the NLG retracted and reduced airplane control.

(f) Compliance

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

(g) Definition of Airworthy Part

For the purposes of this AD, an airworthy part is an NLG leg assembly that has accumulated 1,800 or fewer hours time-in-service (TIS) since first installation on an airplane or that has passed the inspection (no cracks and no damage) required by paragraph (h)(1) of this AD.

(h) Required Actions

(1) Inspect the NLG actuator attachment lever for cracks and damage in the areas shown in paragraph 2 of the Instructions in Diamond Aircraft Work Instruction WI–MSB 42–136 and WI–MSB 42NG–078, Revision 1, dated January 24, 2019 (published as one document with Mandatory Service Bulletin MSB 42–136/1 and MSB 42NG–078, dated January 24, 2019) at the following applicable compliance times:

(i) *For airplanes with an NLG assembly that has accumulated less than 1,800 hours TIS as of the effective date of this AD:* Within 200 hours TIS after the NLG assembly accumulates 1,800 hours TIS or within 12 months after the NLG assembly accumulates 1,800 hours TIS, whichever occurs first, and thereafter at intervals not to exceed 200 hours TIS; or

(ii) *For airplanes with an NLG assembly that has accumulated 1,800 or more hours TIS as of the effective date of this AD:* Within 210 hours TIS after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 200 hours TIS.

(2) After each inspection required by paragraph (h)(1) of this AD, if there is a crack or damage on the NLG actuator attachment lever, before further flight, replace the NLG leg assembly with an airworthy part as defined by this AD.

(3) As of the effective date of this AD, do not install an NLG leg assembly on any airplane unless it is an airworthy part as defined by this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, 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 Related Information or email: *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.

(j) Related 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) 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.

(2) Refer to European Union Aviation Safety Agency (EASA) AD No. 2019–0066, dated March 27, 2019, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0602.

(3) For service information identified in this AD, contact the 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: *https://www.diamondaircraft.com.* You may review this referenced 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 (816) 329–4148.

Issued on July 21, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–16464 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0615; Project Identifier MCAI–2021–00177–T]

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: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This proposed AD was prompted by a report indicating that during production, the manual opening and closing of the over-wing emergency exit door (OWEED) prior to the installation of the OWEED interior panel could have resulted in damaged insulation blankets below the left and right OWEEDs. This proposed AD would require a one-time inspection for damage of the insulation blankets below the left and right OWEEDs, and replacement if necessary, as specified in a Transport Canada Civil Aviation (TCCA) AD, which is proposed for incorporation by reference. 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 September 17, 2021.

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 *https://www.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 material that will be incorporated by reference (IBR) in this AD, contact the TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, CANADA; telephone 888–663–3639;

email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.* You may view this IBR 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 on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0615.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0615; 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: Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@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–2021–0615; Project Identifier MCAI–2021–00177–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 the proposal because of those comments.

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

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 Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@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

TCCA, which is the aviation authority for Canada, issued TCCA AD CF–2021–03 on February 11, 2021 (TCCA AD CF–2021–03) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes.

This proposed AD was prompted by a report indicating that during production, the manual opening and closing of the OWEED prior to the installation of the OWEED interior panel could have resulted in damaged insulation blankets below the left and right OWEEDs. The insulation blanket acts as a fire penetration barrier. The FAA is proposing this AD to address potential damage to the insulation blankets, which could result in delayed passenger evacuation in the event of post-crash/post-impact fire events outside the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

TCCA AD CF–2021–03 describes procedures for a one-time visual inspection for damage of the insulation blankets below the left and right OWEEDs, and replacement of any damaged insulation blankets. 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 and Requirements of This Proposed AD

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 the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in TCCA AD CF–2021–03 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this 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 certain 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, TCCA AD CF–2021–03 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with TCCA AD CF–2021–03 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in TCCA AD CF–2021–03 that is required for compliance with it will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0615 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 33 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$8,415

The FAA estimates the following costs to do any necessary on-condition action 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 this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTION

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$150	$320

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 (AD):

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2021–0615; Project Identifier MCAI–2021–00177–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) AD CF–2021–03, issued February 11, 2021 (TCCA AD CF–2021–03).

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by a report indicating that during production, the manual opening and closing of the over-wing emergency exit door (OWEED) prior to the installation of the OWEED interior panel could have resulted in damaged insulation blankets below the left and right OWEEDs. The FAA is issuing this AD to address this condition, which could result in delayed passenger evacuation in the event of post-crash/post-impact fire events outside the airplane.

(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–2021–03.

(h) Exceptions to TCCA AD CF–2021–03

(1) Where TCCA AD CF–2021–03 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where TCCA AD CF–2021–03 specifies replacement of damaged blankets, this AD requires replacement before further flight after damage is detected.

(3) Where TCCA AD CF–2021–03 refers to ''hours air time,'' this AD requires using flight hours.

(i) Other FAA 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 local Flight Standards District 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; fax 516–794–5531. 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.

(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's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) For information about TCCA AD CF–2021–03, contact the TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, CANADA; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.* For Airbus service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; internet *https://a220world.airbus.com.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0615.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

Issued on July 28, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–16450 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0611; Project Identifier MCAI–2021–00038–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019–05–06, which applies to Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. AD 2019–05–06 requires replacing the retaining ring, inspecting the hoist cable hook assembly, and, if necessary, replacing the elastomeric energy absorber. Since the FAA issued AD 2019–05–06 the design approval holder (DAH) has designed an updated hook assembly, which, when installed, terminates the repetitive inspections required by AD 2019–05–06. This proposed AD would continue to require the actions specified in AD 2019–05–06, and would also require a modification or replacement of the hoist cable hook assembly that would terminate the repetitive inspections and retaining ring replacements, 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 September 17, 2021.

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 *https://www.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 EASA material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Goodrich service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0611.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0611; 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. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@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–2021–0611; Project Identifier MCAI–2021–00038–R'' 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 *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

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 Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2019–05–06, Amendment 39–19588 (84 FR 8961, March 13, 2019) (AD 2019–05–06), which applies to Airbus Helicopters Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. AD 2019–05–06 requires replacing the retaining ring, inspecting the hoist cable hook assembly, and, if necessary, replacing the elastomeric energy absorber. The FAA issued AD 2019–05–06 to address detachment of a hook assembly from an external mounted hoist cable resulting in in-flight failure of the hoist assembly, which could result in injury to persons being lifted.

Actions Since AD 2019–05–06 Was Issued

Since the FAA issued AD 2019–05–06, the DAH has designed an updated hook assembly, which, when installed terminates the repetitive inspections required by AD 2019–05–06.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0011, dated January 12, 2021 (EASA AD 2021–0011) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD) (formerly Eurocopter Deutschland GmbH, Eurocopter España S.A.) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, EC635P2+, EC635P3, EC635T1, EC635T2+ and EC635T3 helicopters, all serial numbers up to 1276 inclusive. Model EC635P2+, EC635P3, EC635T1, EC635T2+, and EC635T3 helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet except where the U.S. type certificate data sheet explains that the Model EC635T2+ helicopter having serial number 0858 was converted from Model EC635T2+ to Model EC135T2+; this proposed AD therefore does not include those helicopters in the applicability.

This proposed AD was prompted by a report that a hook detached from the hoist cable. The FAA is proposing this AD to address detachment of a hook from a hoist cable resulting in in-flight failure of the hoist, which could result in injury to persons being lifted. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0011 specifies procedures for replacing the retaining ring; inspecting the hoist cable hook assembly; replacing the elastomeric energy absorber; and modifying the hoist cable hook assembly or replacing an affected hoist with a serviceable hoist, which terminates the repetitive inspections and replacements.

This proposed AD also requires Goodrich Service Bulletin No. 44301–10–17, Revision 4, dated July 26, 2017, which the Director of the Federal Register approved for incorporation by reference as of April 17, 2019 (84 FR 8961).

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.

Other Related Service Information

Airbus Helicopters has issued Alert Service Bulletin No. ASB EC135–85A–069, Revision 0, dated August 2, 2017. The service information describes procedures for inspecting each affected hook assembly, replacing the retaining ring, and replacing the elastomeric energy absorber.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require replacing the retaining ring, inspecting the hoist cable hook assembly, and, if necessary, replacing the elastomeric energy absorber. This proposed AD would also require accomplishing the actions specified in EASA AD 2021–0011 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text 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 initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2021–0011 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0011 in its entirety, 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 the EASA AD 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 the EASA AD. Service information specified in EASA AD 2021–0011 that is required for compliance with EASA AD 2021–0011 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0611 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 341 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained inspections and replacements of the retaining ring from AD 2019-05-06.	0.50 work-hour × $85 per hour = $42.50.	Minimal	$42.50, per inspection cycle.	Up to $14,492.50, per inspection cycle
New proposed modification	1 work-hour × $85 per hour = $85.	Negligible	$85	$28,985

The FAA estimates the following costs to do any necessary on-condition replacement of the elastomeric energy absorber that would be required based on the results of any required inspections. The FAA has no way of determining the number of helicopters that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
0.50 work-hour × $85 per hour = $42.50	$2,152	$2,194.50

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

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) 2019–05–06, Amendment 39–19588 (84 FR 8961, March 13, 2019); and

■ b. Adding the following new AD:

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2021–0611; Project Identifier MCAI–2021–00038–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 17, 2021.

(b) Affected ADs

This AD replaces AD 2019–05–06, Amendment 39–19588 (84 FR 8961, March 13, 2019) (AD 2019–05–06).

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, all serial numbers up to 1276 inclusive, certificated in any category, with an affected hoist as identified in European Union Aviation Safety Agency (EASA) AD 2021–0011, dated January 12, 2021 (EASA AD 2021–0011).

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report that a hook detached from the hoist cable. The FAA is issuing this AD to address detachment of a hook from a hoist cable resulting in in-flight failure of the hoist, which could result in injury to persons being lifted.

(f) Compliance

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

(g) Retained Requirements of Paragraph (e) of AD 2019–05–06

This paragraph restates the requirements of paragraph (e) of AD 2019–05–06 with no changes. For Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters: Within 90 hours time-in-service (TIS) after April 17, 2019 (the effective date of AD 2019–05–06) and thereafter at intervals not to exceed 180 hours TIS:

(1) Inspect the hook assembly and determine whether the elastomeric energy absorber has taken a permanent compression set by following the Accomplishment Instructions, paragraphs 2.A and 2.B, of Goodrich Service Bulletin No. 44301–10–17,

Revision 4, dated July 26, 2017 (SB 44301–10–17). If the elastomeric energy absorber has taken a permanent compression set, replace the elastomeric energy absorber before the next hoist operation.

(2) Replace the retaining ring by following the Accomplishment Instructions, paragraphs 2.D through 2.K, of SB 44301–10–17.

(h) New Requirements

Except as specified in paragraph (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0011.

(i) Exceptions to EASA AD 2021–0011

(1) Where EASA AD 2021–0011 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraphs (1) and (2) of EASA AD 2021–0011 do not apply to this AD. The equivalent FAA requirements are specified in paragraph (g) of this AD.

(3) The ''Remarks'' section of EASA AD 2021–0011 does not apply to this AD.

(4) Where the service information referenced in EASA AD 2021–0011 specifies to discard certain parts, this AD requires removing those parts from service.

(5) Where paragraph (3) of EASA AD 2021–0011 specifies to modify using ''the instructions of the modification ASB,'' this AD requires using ''paragraph 3.B.1 and 3.B.2 of the Accomplishment Instructions of the modification ASB.''

(6) Where the service information referenced in EASA AD 2021–0011 specifies to use tooling, equivalent tooling may be used.

(7) Accomplishing the modification specified in paragraph (3) of EASA AD 2021–0011 or the replacement specified in paragraph (4) of EASA AD 2021–0011 terminates the repetitive actions required by paragraph (g) of this AD.

(8) Where paragraph (6) of EASA AD 2021–0011 refers to October 25, 2017 (the effective date of EASA AD 2017–0199), this AD requires using the effective date of this AD; and where paragraph (6) of EASA AD 2021–0011 specified to do actions ''as required by paragraph (1) of this [EASA] AD,'' for this AD, do the actions required by paragraph (g) of this AD.

(9) Paragraph (7) of EASA AD 2021–0011 does not apply to this AD. For this AD, for helicopters that do not have an affected hoist identified in paragraph (c) of this AD installed: As of the effective date of this AD, do not install an affected hoist identified in paragraph (c) of this AD on any helicopter.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the required actions can be done to the helicopter (if the operator elects to do so), provided the hoist is not used.

(k) 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 International Validation Branch, send it to the attention of the person identified in paragraph (l)(5) of this AD. Information may be emailed 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.

(l) Related Information

(1) For EASA AD 2021–0011, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(2) For Goodrich service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(3) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0611.

(4) Airbus Helicopters Alert Service Bulletin No. ASB EC135–85A–069, Revision 0, dated August 2, 2017, which is not incorporated by reference, contains additional information about the actions specified in paragraph (g) of this AD.

(5) For more information about this AD, contact Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@faa.gov.*

Issued on July 27, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–16467 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0613; Project Identifier MCAI–2020–01431–T]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) 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 certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. This proposed AD was prompted by a report of cracking found on a main landing gear (MLG) drag strut assembly. This proposed AD would require a records review to determine if an affected MLG drag strut assembly is installed, repetitive detailed inspections for cracking of affected strut assemblies, a one-time magnetic particle inspection for cracking, and on-condition actions if necessary. 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 September 17, 2021.

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

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0613; 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: Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@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–2021–0613; Project Identifier MCAI–2020–01431–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 the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.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 Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–43, dated October 21, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0613.

This proposed AD was prompted by a report of cracking found on an MLG drag strut assembly. The MLG drag strut had accumulated a total of 26,968 flight cycles and 12,392 flight hours since new, of which 2,830 flight cycles and 1,420 flight hours had accumulated since the last overhaul. The last overhaul had been conducted one year prior to the crack finding. It is suspected that the cracking was caused by the clamping method used by the repair facility during the most recent overhaul, and was missed during subsequent non-destructive testing (NDT) inspections required as part of the refurbishment process. The FAA is proposing this AD to address cracking of the MLG drag strut assembly and possible failure under compression loads during landing or ground operations, which could result in asymmetric MLG configuration and potential runway excursion. See the MCAI for additional background information.

FAA's Determination

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 the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined 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 a records review to determine if an affected MLG drag strut assembly is installed, repetitive detailed inspections for cracking of affected strut assemblies, a one-time magnetic particle inspection for cracking, and on-condition actions if necessary. On-condition actions include replacing the MLG drag strut assembly and re-identifying the MLG drag strut assembly.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 34 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 11 work-hours × $85 per hour = Up to $935	$0	Up to $935	Up to $31,790.

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 actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 10 work-hours × $85 per hour = Up to $850	$*	Up to $850	Up to $850.

*The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the actions specified in this proposed AD.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this 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:

De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Docket No. FAA–2021–0613; Project Identifier MCAI–2020–01431–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001, 4003, and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by a report of cracking found on a main landing gear (MLG) drag strut assembly. The FAA is issuing this AD to address cracking of the MLG drag strut assembly and possible failure under compression loads during landing or ground operations, which could result in asymmetric MLG configuration and potential runway excursion.

(f) Compliance

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

(g) Records Review, Repetitive Inspections, and On-Condition Actions

Within 30 days after the effective date of this AD: Review the applicable airplane maintenance records to determine if any affected MLG drag strut assembly identified in figure 1 to the introductory text of paragraph (g) of this AD is installed. If any affected MLG drag strut assembly is installed, do the actions specified in paragraphs (g)(1) and (2) of this AD.

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Figure 1 to the introductory text of paragraph (g) – *Affected MLG Drag Strut Assembly*

Part Number	Serial Number
46301-13	MBM0056
	MBM0073
	MBM0076
	MBM0130
	MBM0136
	MBM0145
	MBM0179
	MBM0204
	MBM0208
	MBM0302
	MBM0303
	MBM0324
	MBM0405
	MBM0408
	MBM0412
	MBM0417
	MBM0423

BILLING CODE 4910–13–C

(1) Within 80 flight hours after accomplishing the records review required by paragraph (g) of this AD, do a detailed inspection for cracking of the affected MLG drag strut assembly, and do all applicable on-condition actions before further flight, in accordance with a method approved by the Manager, New York ACO Branch, FAA. Repeat the inspection thereafter at intervals not to exceed 80 flight hours until the magnetic particle inspection required by paragraph (g)(2) of this AD is done.

Note 1 to paragraph (g)(1): Guidance on the inspections and on-condition actions required by this AD can be found in Transport Canada Civil Aviation (TCCA) AD CF–2020–43, dated October 21, 2020.

(2) Within 1,600 flight hours or 12 months after the effective date of this AD, whichever occurs first, perform a magnetic particle inspection for cracks of the entire tubular section of the affected MLG drag strut assembly, and do all on-condition actions before further flight, in accordance with a method approved by the Manager, New York ACO Branch, FAA. Performing the magnetic particle inspection required by this paragraph terminates the repetitive detailed inspections required by paragraph (g)(1) of this AD.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected MLG drag strut assembly identified in figure 1 to the introductory text of paragraph (g) of this AD on any airplane unless the inspections and applicable on-conditions specified in paragraphs (g)(1) and (2) of this AD are done before further flight.

(i) Other FAA 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; fax 516–794–5531. 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 Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–43, dated October 21, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0613.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

(3) For information about TCCA AD CF–2020–43, dated October 21, 2020, 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;* internet *https://tc.canada.ca/en/aviation.* 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.

Issued on July 28, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–16431 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2021–0540]

RIN 1625–AA08

Special Local Regulations, Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish special local regulations for certain waters of the Choptank River. This action is necessary to provide for the safety of life on navigable waters located at Cambridge, MD, during a high-speed power boat racing event on October 9, 2021, and October 10, 2021. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Event Patrol Commander. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 2, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0540 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *D05-DG-SectorMD-NCR-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Cambridge Power Boat Regatta Association of Cambridge, MD, notified the Coast Guard that it will be conducting the Cambridge Classic Power Boat Regatta from 10 a.m. to 5 p.m. on October 9, 2021, and from 10 a.m. to 5 p.m. on October 10, 2021. The high-speed power boat racing event consists of approximately 60 participating inboard and outboard hydroplane and runabout race boats of various classes, 16 to 24 feet in length. The vessels will be competing on a designated, marked 1-mile oval course located in the Choptank River in a cove located between Hambrooks Bar and the shoreline at Cambridge, MD. Hazards from the power boat racing event include risks of injury or death resulting from near or actual contact among participant vessels and spectator vessels or waterway users if normal vessel traffic were to interfere with the event. Additionally, such hazards include participants operating near designated navigation channels, as well as operating near approaches to local public boat ramps, private marinas and yacht clubs, and waterfront businesses. The COTP Maryland-National Capital Region has determined that potential hazards associated with the power boat races would be a safety concern for anyone intending to operate within certain waters of the Choptank River at Cambridge, MD.

The purpose of this rulemaking is to protect event participants, spectators, and transiting vessels on certain waters of Choptank River before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP Maryland-National Capital Region is proposing to establish special local regulations from 9 a.m. on October 9, 2021, until 6 p.m. on October 10, 2021. The special local regulations would be enforced from 9 a.m. to 6 p.m. on October 9th and those same hours on October 10th. The regulated area would cover all navigable waters within Choptank River and Hambrooks Bay bounded by a line connecting the following coordinates: Commencing at the shoreline at Long Wharf Park, Cambridge, MD, at position latitude 38°34′30″ N, longitude 076°04′16″ W; thence east to latitude 38°34′20″ N, longitude 076°03′46″ W; thence northeast across the Choptank River along the Senator Frederick C. Malkus, Jr. (US–50) Memorial Bridge, at mile 15.5, to latitude 38°35′30″ N, longitude 076°02′52″ W; thence west along the shoreline to latitude 38°35′38″ N, longitude 076°03′09″ W; thence north and west along the shoreline to latitude 38°36′42″ N, longitude 076°04′15″ W; thence southwest across the Choptank River to latitude 38°35′31″ N, longitude 076°04′57″ W; thence west along the Hambrooks Bay breakwall to latitude 38°35′33″ N, longitude 076°05′17″ W; thence south and east along the shoreline to and terminating at the point of origin in Dorchester County, MD.

This proposed rule provides additional information about areas within the regulated area, and the restrictions that apply to mariners. These areas include a ''Race Area,'' ''Buffer Area'' and ''Spectator Area''.

The proposed duration of the rule and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat races, scheduled from 10 a.m. until 5 p.m. on October 9, 2021 and October 10, 2021. The COTP and Coast Guard Event Patrol Commander (Event PATCOM) would have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area would be required to immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Cambridge Classic Power Boat Regatta participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or Event PATCOM before entering the regulated area while the rule is being enforced. Vessel operators could request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF–FM channel 16. Vessel traffic would be able to safely transit the regulated area once the Event PATCOM deems it safe to do so. A person or vessel not registered with the event

sponsor as a participant or assigned as official patrols would be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

If permission is granted by the COTP or Event PATCOM, a person or vessel would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area. Official patrol vessels will direct spectator vessels while within the regulated area. Vessels would be prohibited from loitering within the navigable channel. Only participant vessels and official patrol vessels would be allowed to enter the race area.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the location, size and duration of the regulated area, which impacts a portion of the Choptank River for a total of 18 hours. The regulated area extends across the entire width of the Choptank River between Cambridge, MD, and Trappe, MD. The majority of the vessel traffic through this area consists of passenger, recreational and fishing vessels transiting along the Choptank River or into Cambridge Creek. The Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the regulated area. Moreover, the rule would allow vessels to seek permission to enter the regulated area.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR part 100 for total 18 enforcement hours. Normally such actions are categorically excluded from further review under paragraph L61of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0540 in the ''SEARCH'' box and click ''SEARCH.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.501T05–0540 to read as follows:

§ 100.501T05–0540 Cambridge Classic Power Boat Regatta, Choptank River, Cambridge, MD.

(a) *Locations.* All coordinates reference Datum NAD 1983. (1) *Regulated area.* All navigable waters within Choptank River and Hambrooks Bay bounded by a line connecting the following coordinates: Commencing at the shoreline at Long Wharf Park, Cambridge, MD, at position latitude 38°34′30″ N, longitude 076°04′16″ W; thence east to latitude 38°34′20″ N, longitude 076°03′46″ W; thence northeast across the Choptank River along the Senator Frederick C. Malkus, Jr. (US–50) Memorial Bridge, at mile 15.5, to latitude 38°35′30″ N, longitude 076°02′52″ W; thence west along the shoreline to latitude 38°35′38″ N, longitude 076°03′09″ W; thence north and west along the shoreline to latitude 38°36′42″ N, longitude 076°04′15″ W; thence southwest across the Choptank River to latitude 38°35′31″ N, longitude 076°04′57″ W; thence west along the Hambrooks Bay breakwall to latitude 38°35′33″ N, longitude 076°05′17″ W; thence south and east along the shoreline to and terminating at the point of origin. The following locations are within the regulated area:

(2) *Race area.* Located within the waters of Hambrooks Bay and Choptank River, between Hambrooks Bar and Great Marsh Point, MD. The race area is within the buffer area.

(3) *Buffer area.* All navigable waters within Hambrooks Bay and Choptank River (with the exception of the race area designated by the marine event sponsor) bound to the north by the breakwall and continuing along a line drawn from the east end of breakwall located at latitude 38°35′27.6″ N, longitude 076°04′50.1″ W; thence southeast to latitude 38°35′17.7″ N, longitude 076°04′29″ W; thence south to latitude 38°35′01″ N, longitude 076°04′29″ W; thence west to the shoreline at latitude 38°35′01″ N, longitude 076°04′41.3″ W.

(4) *Spectator area.* All navigable waters of the Choptank River, eastward and outside of Hambrooks Bay breakwall, thence bound by line that commences at latitude 38°35′28″ N, longitude 076°04′50″ W; thence northeast to latitude 38°35′30″ N, longitude 076°04′47″ W; thence southeast to latitude 38°35′23″ N, longitude 076°04′29″ W; thence southwest to latitude 38°35′19″ N, longitude 076°04′31″ W; thence northwest to and terminating at the point of origin.

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

Buffer area is a neutral area that surrounds the perimeter of the Course Area within the regulated area described by this section. The purpose of a buffer area is to minimize potential collision conflicts with marine event participants or high-speed power boats and spectator vessels or nearby transiting vessels. This area provides separation between a Course Area and a specified Spectator Area or other vessels that are operating in the vicinity of the regulated area established by the special local regulations.

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Course area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a course area within the regulated area defined by this section.

Event patrol commander or Event PATCOM means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means all persons and vessels registered with the event sponsor as participating in the ''Cambridge Classic Power Boat Regatta'' powerboat races, or otherwise designated by the event sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as participants or assigned as official patrols.

Spectator area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(c) *Special Local Regulations.* (1) The COTP Maryland-National Capital Region or Event PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area.

When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or Event PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or Event PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the Event PATCOM to request permission to either enter or pass through the regulated area. The Event PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator must enter the designated Spectator Area or pass directly through the regulated area as instructed by Event PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) Only participant vessels and official patrol vessels are allowed to enter the buffer area or race area.

(5) A person or vessel that desires to transit, moor, or anchor within the regulated area must obtain authorization from the COTP Maryland-National Capital Region or Event PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz) or the Event PATCOM on Marine Band Radio, VHF–FM channel 16 (156.8 MHz).

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event dates and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other federal, state, and local agencies.

(e) *Enforcement period.* This section will be enforced from 9 a.m. to 6 p.m. on October 9, 2021, and, from 9 a.m. to 6 p.m. on October 10, 2021.

Dated: July 28, 2021.

David E. O'Connell,

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

[FR Doc. 2021–16478 Filed 8–2–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

[FRL 8794–04–OW]

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of rulemaking initiative.

SUMMARY: In accordance with President Biden's Executive Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis (January 25, 2021), the U.S. Environmental Protection Agency (EPA) announces its decision to undertake a rulemaking that will propose to revise the Steam Electric Power Generating Effluent Limitations Guidelines and Standards. As part of the rulemaking process, EPA will determine whether more stringent limitations and standards are appropriate and consistent with the technology-forcing statutory scheme and the goals of the Clean Water Act. EPA intends to sign the notice of proposed rulemaking for public comment in the Fall of 2022.

DATES: August 3, 2021.

ADDRESSES: U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460;

FOR FURTHER INFORMATION CONTACT: Richard Benware, Engineering and Analysis Division, Office of Water, (4303T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1369, 1200; email address: *benware.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Among its core provisions, the Clean Water Act (CWA) prohibits the discharge of pollutants from a point source to waters of the U.S., except as authorized under the CWA. Under section 402 of the CWA, 33 U.S.C. 1342, discharges may be authorized through a National Pollutant Discharge Elimination System (NPDES) permit. The CWA establishes a dual approach for these permits: (1) Technology-based controls that establish a floor of performance for all dischargers, and (2) water quality-based effluent limitations, where the technology-based effluent limitations are insufficient to meet applicable water quality standards (WQS). As the basis for the technology-based controls, the CWA authorizes EPA to establish national technology-based effluent limitations guidelines (ELGs) and new source performance standards (NSPS) for discharges into waters of the United States from categories of point sources (such as industrial, commercial, and public sources). For discharges to publicly owned treatment works (POTWs), sections 301, 306 and 307 of the CWA call for establishment of pretreatment standards, which are analogous to effluent limitations, which directly apply to new and existing sources.

Clean Water Act section 301(b)(2)(A) requires that, by March 31, 1989, existing discharges of toxic and non-conventional pollutants must be limited based on ''best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued . . . pursuant to section 304(b)(2) of the Act.'' Furthermore, such limitations ''shall require the elimination of discharges of all pollutants if the Administrator finds . . . that such elimination is technologically and economically achievable'' for the industry, ''as determined in accordance with regulations issued . . . pursuant to section 304(b)(2).'' Section 304(b)(2) provides that ''[f]actors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspect of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate.'' The Agency is afforded considerable discretion in how to weigh these factors in making the ultimate decision as to what constitutes ''best available technology economically Achievable.'' *See, e.g., Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1045 (DC Cir. 1978).

In September 2015, EPA finalized a rule revising the regulations for the Steam Electric Power Generating point source category 80 FR 67838 (Nov. 3, 2015). This 2015 rule set limits on the levels of toxic metals in wastewater that can be discharged from power plants. Subsequent to the promulgation of the 2015 rule, the Agency received two

petitions for administrative reconsideration. In response, EPA agreed to reconsider the Effluent Guidelines for two wastestreams (flue gas desulfurization and bottom ash transport water) and the Steam Electric Reconsideration Rule was published in October 2020.

On January 20, 2021, President Biden signed Executive Order 13990 directing federal agencies to review rules issued in the prior four years that are, or may be, inconsistent with the policy stated in the Order. 86 FR 7037. The Order provides that ''[i]t is, therefore, the policy of my Administration to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.'' *Id.* at 7037, Section 1. The Order ''directs all executive departments and agencies (agencies) to immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations and other actions during the last 4 years that conflict with these important national objectives, and to immediately commence work to confront the climate crisis.'' *Id.* ''For any such actions identified by the agencies, the heads of agencies shall, as appropriate and consistent with applicable law, consider suspending, revising, or rescinding the agency actions.'' *Id.* at 7037, Section 2(a). The 2020 Steam Electric Reconsideration Rule was identified for review under the Executive Order. *See* Fact Sheet: List of Agency Actions for Review, available at *https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/* (last visited on April 26, 2021).

EPA has completed its review of the 2020 Steam Electric Reconsideration Rule under Executive Order 13990 and has decided to initiate a notice-and-comment rulemaking in which the Agency will determine whether more stringent limitations and standards are appropriate consistent with the technology-forcing statutory scheme and the goals of the Clean Water Act.

EPA's review found that much of the 2015 steam electric rule remains in place—leading to better control of water pollution from power plants than required by the previously applicable rules. The 2015 rule also had the effect of reducing the cost of controls (*e.g.,* biological treatment systems and membrane treatment systems), which are now being utilized by the power sector. While the Agency undertakes this new rulemaking, facilities will continue to be subject to the requirements of the 2015 Rule, as amended by the 2020 Rule, which are currently effective. As a result, the pollutant reductions accomplished by the existing Rules will occur while the Agency engages in rulemaking to consider more stringent requirements.

EPA's review under Executive Order 13990 also found that membrane treatment systems continue to rapidly advance as an effective option for treating a wide variety of industrial wastewater. EPA expects this technology to continue to advance, and EPA will evaluate whether this technology should serve as the basis for the ''best available technology economically achievable'' under the Clean Water Act to control discharges of pollutants found in flue gas desulfurization wastewater discharges as part of the new rulemaking, in addition to considering whether revisions to the 2020 Rule's requirements applicable to bottom ash transport water and the three subcategories, which are afforded less stringent limits than those otherwise applicable under the Rule, may be warranted.

EPA expects permitting authorities to continue to implement the current regulations while the Agency undertakes a new rulemaking. EPA will determine whether more stringent limitations than those in the 2020 Rule appropriately reflect ''best available technology economically achievable.'' EPA will undertake this rulemaking in accordance with the requirements specified in the Administrative Procedures Act and the Clean Water Act, as required by law.

Radhika Fox,

Assistant Administrator.

[FR Doc. 2021–16354 Filed 7–30–21; 4:15 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 705

[EPA–HQ–OPPT–2020–0549; FRL–7902–03–OCSPP]

RIN 2070–AK67

TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of June 28, 2021, concerning reporting and recordkeeping requirements for Per- and Polyfluoroalkyl Substances (PFAS) under the Toxic Substances Control Act (TSCA). This document extends the comment period for 31 days, from August 27, 2021 to September 27, 2021. An extension of the comment period was requested by some stakeholders to allow interested parties additional time to thoroughly review and analyze the proposed rule's scope and its supporting documents. EPA agrees that a 30-day extension of the comment period is warranted and will respond to comments, including ICR-related comments, in the final rule. Thirty days from August 27, 2021, is September 26, 2021, which is a Sunday; therefore, EPA is extending the comment period to the following Monday, September 27, 2021.

DATES: Comments must be received on or before September 27, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0549, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/*dockets.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Stephanie Griffin, Data Gathering and

Analysis Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1463; email address: *griffin.stephanie@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of June 28, 2021 (86 FR 33926) (FRL–10017–78). In that document, EPA proposed a one-time reporting and recordkeeping rule for certain manufacturers (including importers) of PFAS in any year since January 1, 2011. EPA is hereby extending the comment period, which was set to end on August 27, 2021, to September 27, 2021.

If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 705

Chemicals, Environmental protection, Hazardous Materials, Recordkeeping, and Reporting Requirements.

Dated: July 28, 2021.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–16490 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2444–P]

RIN 0938–AU73

Medicaid Program; Reassignment of Medicaid Provider Claims

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would reinterpret the scope of the general requirement that state payments for Medicaid services under a state plan must be made directly to the individual practitioner providing services, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue. Specifically, this proposal, if finalized, would explicitly authorize states to make payments to third parties to benefit individual practitioners by ensuring health and welfare benefits, training, and other benefits customary for employees, if the practitioner consents to such payments to third parties on the practitioner's behalf.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by September 28, 2021.

ADDRESSES: In commenting, please refer to file code CMS–2444–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 *http://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–2444–P, P.O. Box 8016, Baltimore, MD 21244–8016.

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–2444–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.

FOR FURTHER INFORMATION CONTACT: Christopher Thompson, (410) 786–4044.

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: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. 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. Background

A. Prohibition on Payment Reassignment

The Medicaid program was established by Congress in 1965 to provide health care services for low-income and disabled beneficiaries. Section 1902(a)(32) of the Social Security Act (the Act) imposes certain requirements on how states may make payments for services furnished to Medicaid beneficiaries. Section 1902(a)(32) of the Act provides that generally no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment, power of attorney, or otherwise. This prohibition is followed by four enumerated exceptions. On September 29, 1978, CMS codified these exceptions under 42 CFR 447.10, the regulations implementing section 1902(a)(32) of the Act, in the ''Payment for Services'' final rule (43 FR 45253). The 1978 final rule simply reorganized and redesignated existing Medicaid regulations at § 449.31. Since the 1990s, we have mostly understood this provision as governing only assignments and other similar Medicaid reimbursement arrangements.

Consistent with this understanding, from 2012 to 2014, we engaged in rulemaking to make it explicit that section 1902(a)(32) of the Act did not apply to certain payments made by the state Medicaid program on behalf and for the benefit of individual Medicaid practitioners whose primary source of revenue is the state Medicaid program. We finalized this regulation in the ''State Plan Home and Community Based Services, 5-Year for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community Based Services (HCBS) Waivers'' final rule published in the January 16, 2014 **Federal Register** (79 FR 2948 through 2949, 3001 through 3003, and 3039) (hereinafter referred to as the ''2014 final rule''). In that rulemaking, we reasoned that this policy was permitted by the statute because the apparent purpose of section 1902(a)(32) of the Act was to prohibit factoring arrangements, the practice by which providers sold reimbursement claims for a percentage

of their value to companies that would then submit the claims to the state. The purpose was not to preclude a Medicaid program that is functioning as the practitioner's primary source of revenue from fulfilling the basic employer-like responsibilities that are associated with that role, a scenario that was not contemplated by section 1902(a)(32) of the Act and was outside of the intended scope of the statutory prohibition.

This policy was codified as a regulatory exception under § 447.10(g)(4) to permit withholding from the payment due to the individual practitioner for amounts paid by the state directly to third parties for health and welfare benefits, training costs and other benefits customary for employees. In an August 3, 2016 Center for Medicaid and CHIP Services (CMCS) Informational Bulletin (CIB), we outlined suggested approaches for strengthening and stabilizing the Medicaid home care workforce, including by supporting home care worker training and development. We noted that under § 447.10(g)(4), state Medicaid agencies could facilitate this goal by, with the consent of the individual practitioner, making payment on behalf of the practitioner to a third party that provides benefits to the workforce such as health insurance, skills training, and other benefits customary for employees.[1]

B. Current Medicaid Payment Assignment Regulations

Medicaid regulations at § 447.10 implement the requirements of section 1902(a)(32) of the Act by providing that state plans can allow payments to be made only to certain individuals or entities. Specifically, payment may only be made to the individual practitioner that provided the service (provider) or the recipient (beneficiary), if he or she is a non-cash recipient eligible to receive payment under § 447.25, or under one of the limited exceptions. The regulations specifically state that payment for any service furnished to a recipient by a provider may not be made to or through a factor, either directly or by power of attorney.

The exceptions to the general direct payment principle at § 447.10 generally mirror those enumerated in the statute. They include payment in accordance with a reassignment to a government agency, or pursuant to a court order. There are also exceptions permitting payments to third parties for services furnished by individual practitioners where certain employment or contractual conditions are met. Additionally, there is another exception for payment to a business agent, such as a billing service or accounting firm, that furnishes statements and receives payments in the name of the individual practitioner, if the business agent's compensation for this service is related to the cost of processing the billing, and not dependent on the collection of the payment.

In 2018 and 2019, in a departure from our prior interpretation of this statute, we engaged in rulemaking to interpret the statutory prohibition as applying more broadly to prohibit any type of Medicaid payment to a third party other than the four exceptions enumerated in the statute. In so doing, we interpreted the statutory phrase ''or otherwise'' as encompassing any and all Medicaid reimbursement payment arrangements involving third parties. We proposed this broad interpretation of the statutory language in the ''Reassignment of Medicaid Provider Claims'' proposed rule in the July 12, 2018 **Federal Register** (83 FR 32252 through 32255) and finalized in ''Reassignment of Medicaid Provider Claims'' final rule in the May 6, 2019 **Federal Register** (84 FR 19718 through 19728) (hereinafter referred to as the ''2019 final rule''). This rulemaking eliminated the regulatory exception added by the 2014 final rule.

C. California v. Azar

Six states and 11 intervenors challenged the 2019 final rule. In *California* v. *Azar,* 501 F. Supp. 3d 830 (N.D. Cal. 2020), the district court rejected the Department of Health and Human Services' (HHS') arguments that section 1902(a)(32) of the Act expressly prohibited the agency's previous interpretation of section 1902(a)(32) and states' related practices, remanded the case to HHS for further proceedings, and vacated the 2019 final rule. Secretary Azar then appealed to the U.S. Court of Appeals for the Ninth Circuit in *California* v. *Becerra,* No. 21–15091 (9th Cir.).

D. Individual Practitioner Workforce Stability and Development Concerns

Since the direct payment principle was originally enacted in statute in 1972 and expanded in 1977, the definition of medical assistance under section 1905(a) of the Act has been changed to permit states to offer coverage of categories of practitioner services, such as personal care services, that may be viewed as unique to the Medicaid program. For these practitioners, who often provide services independently, rather than as employees of a service provider, the Medicaid program may be their primary, or only, source of payment. Some states have sought methods to improve and stabilize the workforce by offering health and welfare benefits to such practitioners, and by requiring that such practitioners pursue periodic training.

Within Medicaid, long-term support services (LTSS) expenditures are shifting from institutional care (hospitals, nursing facilities, etc.) to HCBS. In FY 2013, HCBS LTSS expenditures reached 51 percent of total Medicaid LTSS expenditures and have generally increased to 56.1 percent in FY 2018. HCBS represented a majority of LTSS expenditures in 29 states, including the District of Columbia, and over 75 percent of expenditures in five states in FY 2018.

Several states have requested that CMS adopt additional exceptions to the direct payment policy to permit a state to withhold from a payment due to the individual practitioner for amounts that the practitioner is obligated to pay for health and welfare benefits, training costs, and other benefits customary for employees. These amounts would not be retained by the state, but would be paid to third parties on behalf of the practitioner for the stated purpose. We recognize that HCBS workforce issues, such as workforce shortages and staff turnover, have a direct and immediate impact on the quality of and access to services available to beneficiaries, and believe that state Medicaid agencies play a key role in influencing the stability of the workforce by determining wages and benefits, and provider reimbursement.[2]

II. Provisions of the Proposed Rule

A. Prohibition Against Reassignment of Provider Claims (§ 447.10)

Under title XIX of the Act, state Medicaid programs generally pay for Medicaid-covered practitioner services through direct payments to the treating practitioners. States may develop state plan payment rates that include considerations for costs related to health and welfare benefits, training, and other benefits customary for employees. However, consistent with our previous interpretation of the statutory provision at section 1902(a)(32) of the Act, and reflected in regulations at § 447.10 under the 2019 final rule, the entire rate must be paid to the individual practitioner who provided the service, unless certain exceptions apply.

[1] *https://www.medicaid.gov/federal-policy-guidance/downloads/cib080316.pdf.*

[2] *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf.*

Following the district court's decision in *California* v. *Azar,* we examined the statutory language and legislative history, and now conclude that the prohibition in section 1902(a)(32) of the Act is better read to be limited in its applicability to Medicaid payments to a third party pursuant to an assignment, power of attorney, or other similar arrangement. In other words, the statutory prohibition is better viewed as an anti-reassignment provision that only governs assignment-like payment arrangements. We do not believe this provision should be interpreted as a broad prohibition on any and all types of Medicaid payment arrangements beyond those provided directly to Medicaid beneficiaries and providers or enumerated in the statutory exceptions. As such, we propose to amend § 447.10 to add a new paragraph (i), which would incorporate similar language from paragraph (g)(4) as a new provision describing who may receive payment, rather than as an exception to the statutory prohibition in section 1902(a)(32) of the Act.

Specifically, § 447.10(i) would specify that the payment prohibition in section 1902(a)(32) of the Act and § 447.10(d) does not apply to payments to a third party on behalf of an individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue.[3]

The text of the statute addresses only assignments and related payment arrangements wherein a provider's right to claim and/or receive full payment for services furnished to Medicaid beneficiaries is transferred to a third party. The statute includes examples of the types of payment arrangements intended to be prohibited, ''under an assignment or power of attorney or otherwise.'' The general term ''or otherwise'' is listed following two specific and related phases. Statutory interpretation principles suggest that when general words follow specific words in a statutory enumeration, ''the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.'' Sutherland Statutory Construction § 47:17; *Circuit City Stores, Inc.* v. *Adams,* 532 U.S. 105 (2001). Accordingly, the language ''or otherwise'' is best read as referencing payments made under arrangements that are similar to an ''assignment'' and a ''power of attorney'' such that the reach of the prohibition under section 1902(a)(32) of the Act does not extend to payment arrangements that are wholly distinct from such types of arrangements. Consistent with this interpretation, we are also proposing to amend § 447.10(a) to include the phrase ''under an assignment or power of attorney or a similar arrangement.'' This change aligns the regulation with the applicable statutory language and our reading of that language, and creates a consistent framework for proposed new paragraph (i).

Black's Law Dictionary defines ''assignment'' in relevant part as ''[t]he transfer of rights or property,'' and ''power of attorney'' as ''[a]n instrument granting someone authority to act as agent or attorney-in-fact for the grantor.'' [4] Thus, the inclusion of these examples of the types of arrangements intended to be prohibited under section 1902(a)(32) of the Act supports the conclusion that the statute was intended to address scenarios where the right to a provider's Medicaid receivables or the right to submit claims on behalf of the provider are transferred to a third party.

Moreover, the introductory language in section 1902(a)(32) of the Act specifies that no payment under the plan for any care or service furnished to an individual shall be made to anyone other than such individual or the person or institution providing such care or service. This prohibition applies only to payments ''for any care or service,'' which we interpret to prohibit full diversion of the right to claim and/or receive such payments to third parties absent an exception, but not to apply to partial deductions from payments at the request or with the consent of the provider, in order to make payments to third parties on behalf of the provider.

An examination of the statutory exceptions to the general prohibition also supports the conclusion that the prohibition under section 1902(a)(32) of the Act does not extend to payment arrangements that are outside the category of payments with assignments or assignment-like arrangements. The excepted arrangements or transactions are all similar to assignments in that they involve third parties submitting claims directly to the state Medicaid agency for reimbursement or having the right to receive the full amount of all payments due to the provider for services furnished to Medicaid beneficiaries. More specifically, section 1902(a)(32) of the Act contains several specific exceptions to the general principle of direct payment to individual practitioners. There are exceptions for payments for practitioner services where payment is made to the employer of the practitioner, and the practitioner is required as a condition of employment to turn over fees to the employer; payments for practitioner services furnished in a facility when there is a contractual arrangement under which the facility bills on behalf of the practitioner; reassignments to a governmental agency, through a court order, or to a billing agent; payments to a practitioner whose patients were temporarily served by another identified practitioner; and payments for a childhood vaccine administered before October 1, 1994. While these exceptions may appear to be largely unrelated, they all involve payment arrangements where third parties are submitting claims to the Medicaid agency and/or where the right to receive all of the payments due to a provider for services furnished to Medicaid beneficiaries is transferred to a third party.

The fact that the only types of transactions that are explicitly excepted by the statute are assignment-like transactions that involve the transfer to a third party of either a provider's right to submit claims directly to the state and/or to receive all payments otherwise due a provider for services furnished supports our proposed interpretation that the scope of the statutory prohibition extends only to payments to a third party that involve similar types of arrangements. By contrast, partial deductions from Medicaid payments requested by a provider in order to make separate payment to a third party on behalf of the provider for benefits customary for employees does not involve third parties receiving direct payment from the state for care or services provided to Medicaid beneficiaries. Nor does this arrangement allow such third parties to pursue independent claims against the state for Medicaid reimbursement.

The legislative history of section 1902(a)(32) of the Act supports our conclusion that the statutory text is best read as an anti-assignment prohibition.

[3] We note that, to the extent state agencies utilize this option to deduct union dues, union dues may only be deducted from Medicaid payments with the affirmative consent of the practitioner; to do otherwise would be in violation of the First Amendment. *See Janus* v. *Am. Fed'n of State, Cty., and Mun. Emps., Council 31,* 138 S.Ct. 2448, 2486 (2018) (''Neither an agency fee nor any other payment to the union may be deducted from a nonmember's wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.'').

[4] *See* Black's Law Dictionary (11th ed. 2019); *see also* Merriam Webster, available at *https://www.merriam-webster.com/dictionary/assignment* (defining the term ''assignment'' in the ''law'' as ''the transfer of property''); Merriam Webster, available at *https://www.merriam-webster.com/dictionary/power%20of%20attorney* (defining the term ''power of attorney'' as ''a legal instrument authorizing one to act as the attorney or agent of the grantor'').

When Congress adopted the original version of this statute in 1972, it was focused on the practice of factoring—a practice which often led to the submission of inflated or false claims, raising concerns that the factoring industry was a breeding ground for Medicaid fraud.[5] When Congress amended this provision in 1977, it reiterated that it understood the provision simply as a response to and an attempt to prevent factoring. Indeed, in 1977, Congress amended the anti-reassignment provision to close what it perceived to be a loophole that factoring companies were exploiting.[6] This legislative history supports our proposed interpretation of the statutory prohibition as extending only to assignments and assignment-like arrangements that involve a potential for the type of abuse that the statute was intended to prevent.

With respect to classes of practitioners for whom the state's Medicaid program is the only or primary payer, the ability of the state to ensure a stable and qualified workforce may be adversely affected by the inability to deduct from Medicaid payments at the request or with the consent of a provider in order to make separate payment to a third party on behalf of the provider. Deductions for these purposes are an efficient and effective method for ensuring that the workforce has provisions for basic needs and is adequately trained for their functions, thus ensuring that beneficiaries have greater access to such practitioners and higher quality services. Requiring practitioner consent for such deductions ensures Medicaid provider payments are treated appropriately, and in a manner consistent with the wishes of the practitioner, for purposes of receiving benefits such as health insurance, skills training, and other benefits customary for employees.

Although we propose that these deduction practices fall outside the scope of what the statute prohibits, we consider it important to document the flexibility in regulation to ensure confidence in the provider community, particularly for front line workers during the Coronavirus Disease 2019 (COVID–19) pandemic. Within broad federal Medicaid law and regulation, CMS has long sought to ensure maximum state flexibility to design state-specific payment methodologies that help ensure a strong, committed, and well-trained work force. Currently, certain categories of Medicaid covered services, for which Medicaid is a primary payer, such as home and personal care services, suffer from especially high rates of turnover and low levels of participation in Medicaid which negatively impact access to and quality of providers available to Medicaid beneficiaries.[7] These issues often result in higher rates of institutional stays for beneficiaries. This proposed rule would support previous CMS efforts to strengthen the home care workforce by specifying what actions are permitted, to help foster a stable and high-performing workforce.[8] Under our proposed amendment to § 447.10, state Medicaid programs would be permitted, as authorized under state law and with the consent of the individual practitioner, to deduct from the practitioner's reimbursement in order to pay third parties for health and welfare benefit contributions, training costs, and other benefits customary for employees.

In late 2017, we requested input from states indicating whether they had implemented the types of payment arrangements permitted under § 447.10(g)(4) after publication of the 2014 final rule. Of the states that voluntarily responded to CMS, we found that some states had entered into third party payment arrangements on behalf of individual practitioners, while others had not. This input is the most current state stakeholder feedback we have; therefore, we anticipate the impact of such payment arrangements to be positive for both states and practitioners. For states, the third-party payment arrangements authorized by this proposed rule would be optional and if a state chooses to implement them, then states can use existing administrative processes to make deductions, with consent of the individual practitioner, from a practitioner's Medicaid reimbursement for benefits. For practitioners, this proposed rule will enhance the ability of the practitioners, regardless of their employment arrangement, to perform their functions as health care professionals, and thus, support beneficiary access to quality home health care. The Medicaid program, at both the state and federal levels, has a strong interest in ensuring the development and maintenance of a committed, well-trained workforce.

With the majority of LTSS expenditures spent on HCBS, rather than institutional services, the importance of a strong home care workforce in Medicaid cannot be understated. Under section 9817 of the American Rescue Plan, we continue to reinforce the importance of HCBS in Medicaid and during the COVID–19 pandemic by providing a temporary 10 percentage point increase to the federal medical assistance percentage for certain HCBS delivered by home care providers, as these services are crucial to some of the most vulnerable individuals in our country. The proposed rule would help protect the economic security for home care providers. The ability of home care providers to choose how deductions are made is critically important to improvements in workforce standards. Moreover, since the majority of home health care workers are women and people of color,[9] permitting this type of payment arrangement will directly benefit those populations and address inequities.

Further, the increasing shortage of home care providers due to high turnover, low participation in Medicaid, low wages, and lack of benefits and training has significantly reduced access to home health care services for older adults and people with disabilities. State Medicaid agencies can play a key role in increasing such access by improving workforce stability of these practitioners by addressing training, wages and benefits, and provider reimbursement.[10] Under this proposed rule, state Medicaid agencies would be authorized to deduct from a practitioner's Medicaid payment, with the consent of the individual practitioner, in order to pay a third party on behalf of the individual practitioner for benefits that provide the workforce with freedom to advocate for higher wages and career advancement, access necessary trainings, and options for other customary employee benefits.

States typically have an established administrative process for their own employees' deductions for benefits that

[5] *See, for example,* H.R. REP. NO. 92–231, at 104 (1972), reprinted in 1972 U.S.C.C.A.N. 4989, 5090; H.R. REP. NO. 92–231, at 205, reprinted in 1972 U.S.C.C.A.N. at 5090; S. REP. NO. 92–1230, at 204 S. REP. NO. 92–1230, at 204 (1972); *Professional Factoring Service Association* v. *Mathews,* 422 F. Supp. 250, 251–52 (S.D.N.Y. 1976).

[6] *See, for example,* H. REP. NO. 95–393(II), at 43, reprinted in 1977 U.S.C.C.A.N. at 3045; H. REP. NO. 95–393(II), at 46, reprinted in 1977 U.S.C.C.A.N. at 3048; H. REP. NO. 95–393(II), at 48–49 (1977), reprinted in 1977 U.S.C.C.A.N. 3039, 3051; S. REP. NO. 95–453, at 6–8 (1977).

[7] Kim J. (2020). Occupational Credentials and Job Qualities of Direct Care Workers: Implications for Labor Shortages. *Journal of labor research,* 1–18. Advance online publication. *https://doi.org/10.1007/s12122-020-09312-5.*

[8] *https://www.medicaid.gov/federal-policy-guidance/downloads/cib080316.pdf.*

[9] *https://www.kff.org/coronavirus-covid-19/event/march-30-web-event-unsung-heroes-the-crucial-role-and-tenuous-circumstances-of-home-health-aides-during-the-pandemic/.*

[10] *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf.*

can also be applied to classes of practitioners for whom Medicaid is the only or primary payer. Additionally, state Medicaid agencies often act as employers without a formal relationship to classes of practitioners for whom Medicaid is the only or primary payer, such as home care providers or personal care assistants. Using the state's established administrative processes to deduct funds to pay third parties on behalf of the practitioner, with the consent of the individual practitioner, may simplify administrative functions and program operations for the state and provide advantages to practitioners. For example, a practitioner could receive continuous health care coverage because the state automatically deducts funds for health insurance premiums on behalf of the practitioner. Providing state Medicaid agencies with the authority to make deductions from Medicaid reimbursements, with the consent of the individual practitioner, in order to make payments to a third party on behalf of the individual practitioner for benefits such as health insurance, skills training and other benefits customary for employees will ensure many of the country's most vulnerable workers, who care for the country's most vulnerable individuals, retain benefits which help them support themselves and their families.

We note that this proposed rule would not authorize a state to claim as a separate expenditure under its approved Medicaid state plan, amounts that are deducted from payments to individual practitioners (that is, health and welfare benefit contributions, training, and similar benefits customary for employees). Under the proposed rule, should a state wish to recognize such costs, they would need to be included as part of the rate paid for the service in order to be eligible for federal financial participation. No federal financial participation would be available for such amounts apart from the federal match available for a rate paid by the state for the medical assistance service. These costs also could not be claimed by the Medicaid agency separately as an administrative expense. As a result, this proposed rule would have little to no impact on federal Medicaid funding levels.

As discussed in the January 16, 2014 final rule (79 FR 2947, 3039), the policies proposed within this rule would not require any change in state funding to the extent that practitioner rates have already factored in the cost of benefits, skills training, and other benefits customary for employees. This rule would simply ensure flexibility for states to pay for such costs directly on behalf of practitioners and ensure uniform access to benefits, such as health insurance, skills training and other benefits customary for employees. Indeed, should this proposed rule be finalized, there may be cost savings resulting from the collective purchase of such benefits and greater workforce stability.

We are specifically soliciting public comments on the extent to which the proposed payment arrangements would benefit states and practitioners, particularly if and how practitioner's access to benefits would be impacted, as well as any adverse impacts that may have not been anticipated. Additionally, we are seeking comments on other permissible actions based on our proposed statutory interpretation that might similarly simplify and streamline states' operations of their Medicaid state plans and payment processes.

III. Collection of Information Requirements

To the extent a state changes its payment as a result of finalizing this proposed rule, the state would be required to obtain practitioner consent and update its payment system. We believe the associated burden is exempt from the Paperwork Reduction Act (PRA) in accordance with 5 CFR 1320.3(b)(2). We believe that the time, effort, and financial resources necessary to exercise this flexibility would be incurred by the state during the normal course of their activities, and therefore should be considered usual and customary business practices.

IV. 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 would 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 would respond to the comments in the preamble to that document.

V. Regulatory Impact Analysis

A. Statement of Need

In *California* v. *Azar,* the district court vacated the 2019 rule and remanded to HHS for further proceedings. Accordingly, we examined the statute anew, and determined that the prohibition in section 1902(a)(32) of the Act is better read to be limited in its applicability to Medicaid payments to a third party pursuant to an assignment, power of attorney, or other similar arrangement. Although the court vacated the 2019 rule, our current statutory interpretation requires this rulemaking in order to reclassify the exception in § 447.10(g)(4) as instead describing arrangements that are beyond the scope of prohibition in section 1902(a)(32) of the Act. Furthermore, while we now believe these arrangements are beyond the scope of the statute, we nevertheless consider it important to document and ensure clarity and flexibility for individual practitioners. Finally, this rule provides us an opportunity to reinforce the important caveat that such deductions may only be made with the consent of the individual practitioner.

B. Overall Impact

We have examined the impacts of this proposed 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 (RFA) (September 19, 1980, Pub. L. 96–354), 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 that may: (1) Have 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) create a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise 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). We estimate that this proposed rule will be budget neutral or have a minimal economic impact that is unlikely to have an annual effect on the economy in excess of the $100 million threshold of Executive Order 12866. Based on our estimates, the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this rulemaking is ''significant'' and ''not major'' under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act).

Although we are establishing a new regulatory provision, the change is merely in the statutory approach, while the effect is largely the same as under § 447.10(g)(4). As such, as discussed in the January 16, 2014 final rule (79 FR 2947, 3039) that initially established the authority for these arrangements, we believe that this proposed rule ensures Medicaid funding additional operational flexibilities for states to ensure a strong provider workforce. There is also no impact on individual practitioners, even though the proposed rule would allow states to deduct payments from provider's payment with their consent under the specific circumstances described in the proposed rule. State budgets will not likely be significantly affected because the operational flexibilities in the proposed rule would only facilitate the transfer of funds between participating entities, rather than the addition or subtraction of new funds.

Since the 2014 and 2019 final rules, we are not aware of any state plan amendments submitted by state Medicaid agencies that intended to modify provider payments rates in response to these previous regulatory changes. In addition, we do not formally track the payment amounts that state Medicaid agencies pay to third parties as affected by the proposed regulatory provision. As such, the Department invited public comments to help refine this analysis in the 2018 proposed rule, but no substantive analysis of the economic impact of this rule was provided as noted in the 2019 final rule. Again, we are seeking comment on this estimate, and particularly on types and amounts deducted from individual providers for payment to third parties, broken down by benefit that may be included under § 447.10(i).

C. Anticipated Effects

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $8.0 million to $41.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary proposes to certify, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may 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 for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary proposes to certify, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2021, that threshold is approximately $158 million. This rule will have no consequential effect on state, local, or tribal governments or on the private sector.

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. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

D. Alternatives Considered

We considered incorporating additional regulatory text under § 447.10(i) requiring explicit written consent from a practitioner before state Medicaid agencies may make a payment on behalf of the practitioner to a third party that provides benefits to the workforce such as health insurance, skills training, and other benefits customary for employees. We also considered identifying specific employee benefits for which payments may be deducted and paid to a third party in the regulatory text under § 447.10(i), such as federal income taxes, Federal Insurance Contributions Act (FICA) taxes, state and local taxes, retirement benefits (for example, 401k, profit-sharing), health insurance, dental insurance, vision insurance, long-term care insurance, disability insurance, life insurance, gym memberships, health savings accounts (HSA), job-related expenses (for example, union dues with affirmative consent, uniforms, tools, meals, and mileage), and charitable contributions. Rather than listing the universe of benefits for which payments may be deducted and paid by state Medicaid agencies to third parties with consent of the provider, we also considered whether to exclude certain benefit deductions from the scope of this proposed rule. Finally, we considered requiring practitioner consent only for specific types of deductions, rather than all types of benefits, for which Medicaid payment amounts may be deducted and paid to a third party in the regulatory text under § 447.10(i).

We considered but did not propose to require explicit written provider consent for deductions out of concern that codifying a requirement for written consent could unintentionally result in a conflict with state law. As proposed, we would defer to state Medicaid agencies to ensure consent is obtained and for further implementation of provider payment deductions consistent with state law and regulation for state employee benefit deductions. We are requesting public comment on whether to include a CMS requirement for written provider consent or to remain silent on the form such consent must take and to defer to existing state law and regulation. Specifically, we are seeking comments on what constitutes appropriate consent (that is, letter, email, form), descriptions of state law that require consent, and how CMS could minimize burden on state Medicaid agencies and prevent conflict with state laws and regulations if specific consent requirements were finalized within the regulatory text. Thus, we are providing in this proposed rule that a provider must voluntarily consent to payments to third parties on the provider's behalf, but propose to leave to each state to determine the best means of confirming the provider's consent in each case.

We also considered but did not propose to codify a defined list of allowable benefits or excluded benefits within the regulatory text based on

concerns that such a list may not accurately reflect all employee benefits available to practitioners and would need frequent updates through the rulemaking process in order to remain relevant. The available benefits may vary between states and we would, again, defer to specific state laws and regulations as the basis for implementing the proposed rule. We are soliciting public comments on whether to codify a defined list of benefits that may be deducted from a provider's payment and, on behalf of the provider, be made to third parties. We are also soliciting public comments on whether there are additional types of benefits that state Medicaid agencies make to third parties on behalf of a provider receiving benefits that were not contemplated in the examples described in this section. In particular, we are seeking comments on whether the described list of benefits is generally permissible and consistent with deductions or payments made by states on behalf of state employees, as well as examples of potential impermissible arrangements we may exclude from the final rule. Finally, we are requesting that commenters further explain why the benefits they provide as examples within their comments are permissible or impermissible under the proposed § 447.10(i). As noted in the Overall Impact section, we are also seeking public comments, as well as data on the type and amount of benefit deductions broken down by benefit that may be included under § 447.10(i).

We considered but did not propose to require consent only for specific types of deductions, rather than all types of benefits, for which Medicaid payment amounts may be deducted and paid to a third party in the regulatory text based on the concern that we may not accurately capture all of the employee benefits practitioners believe should require consent. Additionally, identifying certain types of employee benefits for which payments may be deducted and paid to a third party in the regulatory text would also need frequent updates through the rulemaking process in order to remain relevant. We are soliciting public comments on whether to codify that consent is only required for deductions for certain types of employee benefits, which benefits, and why those benefits should require consent from the practitioner. We are also soliciting public comments on whether requiring consent for certain types of employee benefits is advantageous or disadvantageous for the state and practitioner rather than requiring consent for all types of employee benefits.

E. Conclusion

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on July 21, 2021.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1396r–8.

■ 2. Amend § 447.10 by revising paragraph (a) and adding new paragraph (i) to read as follows:

§ 447.10 Prohibition against reassignment of provider claims.

(a) *Basis and purpose.* This section implements section 1902(a)(32) of the Act which prohibits State payments for Medicaid services to anyone other than a provider or beneficiary, under an assignment, power of attorney, or similar arrangement, except in specified circumstances.

* * * * *

(i) *Payment prohibition.* The payment prohibition in section 1902(a)(32) of the Act and paragraph (d) of this section does not apply to payments to a third party on behalf of an individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue, if the practitioner voluntarily consents to such payments to third parties on the practitioner's behalf.

Dated: July 28, 2021.

Andrea Palm,

Deputy Secretary, Department of Health and Human Services.

[FR Doc. 2021–16430 Filed 7–30–21; 4:15 pm]

BILLING CODE 4120–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2021–0088; FRL–8792–01–OCSPP]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities (July 2021)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before September 2, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest as shown in the body of this document, online at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA/DC and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on the EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the agency taking?

EPA is announcing receipt of pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), summaries of the petitions that are the subject of this document, prepared by the petitioners, are included in dockets EPA has created for these rulemakings. The dockets for these petitions are available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

Notice of Filing—Amended Tolerance Exemptions for Inerts (Except PIPs)

IN–11547. (EPA–HQ–OPP–2021–0383). CH Biotech R&D Co., Ltd. (601 Kettering Drive, Ontario, CA 91761) requests to amend an exemption from the requirement of a tolerance for residues of L-Glutamic Acid (LGA); (2S)-2-Aminopentanedioic Acid (CAS Reg. No. 56–86–0) when used as an inert ingredient (nutrient) in pesticide formulations applied on crops pre-harvest according to 40 CFR part 180.920, at a limit of not more than 6% by weight in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

New Tolerance Exemptions for Inerts (Except PIPS)

IN–11506. (EPA–HQ–OPP–2021–0364). Exponent, Inc. (1150 Connecticut Ave, Suite 1100, Washington, DC 20036) on behalf of Lamberti USA, Incorporated (P.O. Box 1000 Hungerford, TX 77448) requests to establish an exemption from the requirement of a tolerance for residues of fatty acids, tall-oil, esters with triethanolamine, ethoxylated (CAS Reg. No. 68605–38–9) and fatty acids, C8–18 and C18-unsatd., esters with polyethylene glycol ether with triethanolamine (3:1) (CAS Reg. No. 2464873–19–4) when used as inert ingredients (surfactants) in pesticide formulations applied on crops pre- and post-harvest according to 40 CFR part 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

New Tolerances For Non-Inerts

PP 0F8863 & 0E8866. (EPA–HQ–OPP–2021–0191). Syngenta Crop Protection, LLC 410 Swing Road Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide difenoconazole in or on: Avocado at 0.15 parts per million (ppm); Caneberry subgroup 13–07A, at 3.0 ppm; Corn, field, grain at 0.015 ppm; Corn, field, stover at 10.0 ppm; Corn, field, forage at 3.0 ppm; Grain, aspirated fractions at 0.7 ppm; Corn, field, milled byproducts at 0.3 ppm; Corn, field, refined oil at 0.02 ppm; Corn, field, gluten meal at 0.05 ppm; Corn, pop, forage at 3.0 ppm; Corn, pop, grain at 0.01 ppm; Corn, pop, stover at 15 ppm; Corn, sweet, cannery waste at 0.03 ppm; Corn, sweet, ear at 0.01 ppm; Corn, sweet, forage at 15 ppm; Corn, sweet, stover at 15 ppm; Peanut, nutmeat at 0.01 ppm; Peanut hay at 20 ppm. The gas chromatography equipped with a nitrogen-phosphorous detector is used to measure and evaluate the chemical 1-[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl-1,3-dioxolan-2-ylmethyl]-1H–1,2,4-triazole. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: July 21, 2021.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2021–16333 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 86, No. 146

Tuesday, August 3, 2021

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Analysis of Service Contract Inventory for FY 2017–2019 and the Planned Analysis of the FY 2020 Inventory; Notice of Availability

AGENCY: United States Agency for International Development (USAID)

ACTION: Notice of public availability.

SUMMARY: In accordance with Section 743 of Division C of the FY2010 Consolidated Appropriations Act, the United States Agency for International Development (USAID) hereby advises the public of the availability of the FY 2017–2020 Service Contract Inventory found at *https://www.acquisition.gov/service-contract-inventory.* The inventory provides information on service contract actions over $25,000. The inventory has been developed in accordance with guidance issued by the Office of Management and Budget's Office of Federal Procurement Policy (OMB/OFPP). The USAID service contract inventory data is included in the government-wide inventory posted in the above link and the government-wide inventory can be filtered to display the inventory data for the Agency. USAID has also posted its FY 2017–2019 SCI Reports at: *https://www.usaid.gov/results-and-data/budget-spending/official-service-contract-inventory.* The FY 2019 Report includes the plan for analyzing the FY 2020 inventory.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Eileen Simoes, Chief, Policy Division, Bureau for Management Policy, Budget and Performance, U.S. Agency for International Development, (202) 921–5090, *esimoes@usaid.gov.*

Susan C. Radford,

Management and Program Analyst, Bureau for Management Policy, Budget and Performance, U.S. Agency for International Development.

[FR Doc. 2021–16491 Filed 8–2–21; 8:45 am]

BILLING CODE 6116–02–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–21–MFH–0011]

Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2022

AGENCY: Rural Housing Service, Department of Agriculture.

ACTION: Notice and correction of a previous notice.

SUMMARY: The Rural Housing Service (RHS), an agency of the United States Department of Agriculture (USDA), published a notice of solicitation of applications (NOSA) in the **Federal Register** on February 2, 2021, entitled ''Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2021.'' The Notice described the methods used to distribute funds, the pre-application and final application processes, and submission requirements. The purpose of this Notice is to announce the second round of solicitation of competitive pre-applications. Additionally, this notice corrects inadvertent errors published in NOSA on February 2, 2021 in the **Federal Register**.

DATES: Eligible pre-applications submitted to the Production and Preservation Division, Processing and Report Review Branch for this Notice, will be accepted until November 1, 2022, 12:00 p.m., Eastern Standard Time. See the **SUPPLEMENTARY INFORMATION** section of the NOSA published in the **Federal Register** on February 2, 2021, entitled ''Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2021'' for additional information.

ADDRESSES: Applications to this Notice must be submitted electronically to the Production and Preservation Division, Processing and Report Review Branch. Specific instructions on how to submit applications electronically are provided under the **SUPPLEMENTARY INFORMATION** section of the NOSA published in the **Federal Register** on February 2, 2021, entitled ''Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2021'' for additional information.

FOR FURTHER INFORMATION CONTACT: Abby Boggs, Branch Chief, Program Support Branch, Production and Preservation Division, Multifamily Housing Programs, Rural Development, United States Department of Agriculture, via email: *abby.boggs@usda.gov* or phone at: (615) 490–1371.

SUPPLEMENTARY INFORMATION: The amount of program dollars available will be determined by yearly appropriations. Available loan and grant funding amounts can be found at the following link: *https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants.* Expenses incurred in developing preapplications and final applications will be at the applicant's sole risk.

Key Priorities

The Agency encourages applicants to consider projects that will advance the following key priorities:

- Assisting Rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities.
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects.
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

Executive Summary

As required by 7 CFR 3560.556, RHS is required to publish in the **Federal Register**, an annual NOSA for each round of the Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction program. The first notice was published on February 2, 2021 in

the **Federal Register**, at 86 FR 7840. The Notice announced the initial opening round and described the method used to distribute funds, the pre-application and final application process, and submission requirements.

There are three rounds of pre-application submissions and selections for this program until November 1, 2022. For details, applicants should refer to the full funding announcement notice published on February 2, 2021, in the **Federal Register** at 86 FR 7840. This notice announces the second round that opens on September 1, 2021. The available loan and grant funding will be posted to the RHS website by August 2, 2021. Pre-applications must be submitted by November 1, 2021, 12:00 p.m., Eastern Standard Time. RHS will notify applicants by January 4, 2022. Pre-application selections will be posted to the RHS website by March 1, 2022. Final applications must be submitted by May 2, 2022, 12:00 p.m., Eastern Standard Time. Funds must be obligated by September 30, 2022.

There will be a third opening round on September 1, 2022, before which another announcement Notice will be published in the **Federal Register**.

Correction

The following corrections remedy inadvertent errors in the NOSA published on February 2, 2021 in the **Federal Register**:

1. In the **Federal Register** of February 2, 2021, in FR Doc. 2021–02193, on page 7842, in the second column, correct the first sentence in section (a) to read:

(a) To be eligible to receive a Section 514 loan for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(a) and be a broad-based non-profit organization; a nonprofit organization of farmworkers, a Federally recognized Indian tribe, a community organization, or an Agency or political subdivision of state or local Government, and must meet the requirements of § 3560.55, excluding § 3560.55(a)(6).

2. On page 7842, in the second column, correct the first sentence in section (b) to read:

(b) To be eligible to receive a Section 516 grant for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(b) and be a broad-based non-profit organization; a nonprofit organization of farmworkers, a federally recognized Indian tribe, a community organization, or an agency or political subdivision of State or local Government, and must meet the requirements of § 3560.55, excluding § 3560.55(a)(6).

3. On page 7843, at the bottom of the second column, correct section (b) to read:

(b) RHS will host workshops on August 25, 2021 and August 25, 2022 to discuss the application process, the borrower's responsibilities under the Off-FLH program, among other topics. Requests to attend the workshop(s) can be sent to the following email address: *Off-FLHapplication@usda.gov.* The email must contain the following information:

(1) *Subject line:* ''Off-FLH Workshop.''

(2) *Body of email:* Borrower Name, Project Name, Borrower Contact Information, Project State.

(3) *Request language:* ''Please reply with information for attending next week's Off-FLH Workshop.''

Requests will be accepted beginning on August 18th of the corresponding year.

4. On page 7844, in the second column, remove section (4) and redesignate the subsequent sections 5 through 20 as 4 through 19.

5. On page 7845, in the third column, correct the numbering after section (20) to redesignate section (22) as (20), section (23) as (21), and section (24) as (22).

6. On page 7846, in the second column, add a sentence at the end of section (vii) to read as follows:

Applicants are strongly encouraged to use the Active Partners Performance System (APPS) available on HUD's website to electronically submit the Form HUD 2530 for HUD staff review and approval, if applicable. If approval obtained, the applicant would submit the review from HUD indicating approval in the application. The website can be found at: *https://www.hud.gov/program_offices/housing/mfh/apps/appsmfhm.*

7. On page 7852, in the first column, add a section (31) to read as follows:

(31) At least seven business days prior to the application deadline for the applicable funding round, the applicant must email RHS a request to submit an electronic payment of $24 to pay for credit reports obtained by RHS. The email must be sent to the following address: *Off-FLHapplication@usda.gov.* The email must contain the following information:

(i) *Subject line:* ''Off-FLH Application Credit Report Payment.''

(ii) *Body of email:* Borrower Name, Project Name, Borrower Contact Information, Project State.

(iii) *Request language:* ''Please email me a link to submit the credit report fee.''

Within four business days after the email request for a link to submit the credit report fee is received, you will receive an email containing a secure link to enter your bank routing and account number for your payment. If the payment is not submitted by the application deadline for the applicable funding round, the application will be considered incomplete and will not be considered for funding.

Chadwick Parker,

Acting Administrator, Rural Housing Service.

[FR Doc. 2021–16472 Filed 8–2–21; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Tennessee Advisory Committee to the Commission will convene by conference call on Thursday, August 19, 2021, at 12:00 p.m. (CT). The purpose is to consider topics for their next project.

DATES: The meeting will be held on: Thursday, August 19, 2021, 12:00 p.m. CT.

Join via Webex: *https://civilrights.webex.com/civilrights/j.php?MTID=m266086828fecf71c42baa6329432e1c3.* Join via phone: 800–360–9505 USA Toll Free; Access Code: 199 769 7332#.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the WebEx link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be

emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda: Thursday, August 19, 2021; 12:00 p.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Committee Discussion
4. Next Steps
5. Public Comment
6. Other Business
7. Adjourn

Dated: July 28, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–16471 Filed 8–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–816]

Certain Steel Nails From Malaysia: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that certain steel nails from Malaysia were sold in the United States at less than normal value during the period of review, July 1, 2019, through June 30, 2020. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Preston Cox, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2020, Commerce published the notice of initiation of the administrative review of the antidumping duty order on certain steel nails from Malaysia.[1] On October 27, 2020, Commerce selected Region International Co., Ltd. and Region System Sdn. Bhd. (collectively, Region) as the mandatory respondent in this administrative review.[2] On March 25, 2021, we extended the time limit for completion of these preliminary results to July 30, 2021, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).[3] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order

The products covered by the scope of the order are certain steel nails from Malaysia. For a complete description of the scope of this administrative review, *see* the Preliminary Decision Memorandum.

Partial Rescission of Administrative Review

In the *Initiation Notice,* we initiated a review of twenty-five companies. Subsequently, Mid Continent Steel & Wire, Inc. (the petitioner) withdrew its request for review with respect to twenty of these companies.[5] No other parties had requested a review of these companies. Thus, in response to the petitioner's timely withdrawal of its request and pursuant to 19 CFR 351.213(d)(1), we are rescinding the administrative review of the twenty companies listed in Appendix II to this notice.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020) (*Initiation Notice*).

[2] *See* Memorandum, ''Administrative Review of Antidumping Duty Order on Certain Steel Nails from Malaysia: Respondent Selection,'' dated October 27, 2020. Commerce has preliminarily determined to collapse the Region companies and treat them as a single entity. For a discussion of the collapsing criteria, *see* Memorandum, ''Analysis Memorandum for Region International Co., Ltd. and Region System Sdn. Bhd. in the Preliminary Results of the 2019/2020 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia,'' dated concurrently with this notice.

[3] *See* Memorandum, ''Certain Steel Nails from Malaysia: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,'' dated March 25, 2021.

[4] *See* Memorandum, ''Certain Steel Nails from Malaysia: Decision Memorandum for Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* Petitioner's Letter, ''Certain Steel Nails from Malaysia—Withdrawal of Request for Administrative Review,'' dated September 24, 2020 (Petitioner's Withdrawal of Request for Administrative Review).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. 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 *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice.

Rate for Non-Selected Companies

The statute and Commerce's regulations do not address the establishment of a 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 a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we preliminarily calculated a weighted-average dumping margin for Region that was not zero, *de minimis,* or based on facts available. Accordingly, we have preliminarily assigned the weighted-average dumping margin calculated for Region as the weighted-average dumping margin for the non-individually examined companies.

Preliminary Results of Review

We preliminarily determine that the following estimated weighted-average dumping margins exist for the period July 1, 2019, through June 30, 2020:

Producer/exporter	Estimated weighted-average dumping margin (percent)
Region International Co., Ltd. and Region System Sdn. Bhd	1.77
Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd[6]	1.77
Tag Fasteners Sdn. Bhd	1.77

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this administrative review within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[7] Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[10]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margin for Region is not zero or *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).[11] If Region's weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[12] For entries of subject merchandise during the period of review produced by Region for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries.[13]

Consistent with its recent notice,[14] 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). The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated antidumping duties, where applicable.

For the companies for which this review is rescinded with these preliminary results, Commerce will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period July 1, 2019 through June 30, 2020, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after publication of this notice in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established in the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.66 percent, the all-others rate established in the less-than-fair-value investigation.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[6] Commerce determined to collapse, and treat as a single entity, affiliates Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. in the final results of the 2018–2019 antidumping duty administrative review of certain steel nails from Malaysia. Therefore, we are continuing to treat these companies as a single entity for these preliminary results. *See Certain Steel Nails from Malaysia: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 16322 (March 29, 2021).

[7] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'')

[8] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[9] *See* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.310(c).

[11] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[12] *Id.* at 8102–03; *see also* 19 CFR 351.106(c)(2).

[13] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[14] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[15] *See Certain Steel Nails from Malaysia: Amended Final Determination of Sales at Less Than Fair Value,* 80 FR 34370 (June 16, 2015).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: July 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Partial Rescission of Administrative Review
V. Companies Not Selected for Individual Examination
VI. Discussion of the Methodology
VII. Currency Conversion
VIII. Recommendation

Appendix II—List of Companies for Which Commerce Is Rescinding the Administrative Review

1. Atlantic Manufacture Inc.
2. Chia Pao Metal Co., Ltd.
3. Delmar International (Vietnam) Ltd.
4. Dicha Sombrilla Co., Ltd.
5. Expeditors Vietnam Company Limited
6. Gia Linh Logistics Services Co., Ltd.
7. Global Logistics Solution Co., Ltd.
8. Jinhai Hardware Co., Ltd.
9. K-Apex Logistics (HK) Co., Limited
10. KPF Vietnam Co., Ltd.
11. KPF Vina Co., Ltd.
12. Orient Star Transport Int'l Ltd.
13. Oriental Multiple Enterprise Ltd.
14. Pudong Prime Int'l Logistics Inc.
15. Rich State, Inc.
16. Top Shipping Company Limited
17. Topy Fasteners Vietnam Co., Ltd.
18. Truong Vinh Ltd.
19. United Nail Products Co., Ltd.
20. Vina Hardwares Joint Stock Company.[16]

[FR Doc. 2021–16476 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–DS–P

[16] *See* Petitioner's Withdrawal of Request for Administrative Review.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–848]

Emulsion Styrene-Butadiene Rubber From Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) determines that Industrias Negromex S.A. de C.V. (Negromex) made sales of subject merchandise at prices below normal value during the period of review (POR) September 1, 2018, through August 31, 2019.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

This review covers one producer/exporter of the subject merchandise: Negromex. On January 29, 2021, Commerce published the *Preliminary Results*.[1] On March 22, 2021, we received case briefs from the petitioner[2] and Negromex.[3] On March 29, 2021, we received a rebuttal brief from the petitioner.[4] On May 14, 2021, we extended the deadline for issuance of the final results of this review to July 28, 2021.[5]

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the order is emulsion styrene-butadiene rubber from Mexico. For a complete description of the scope of this order, *see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs filed by interested parties in the Issues and Decision Memorandum. Attached to this notice, in the Appendix, is a list of the issues which parties raised. 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 *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directlyat *http://enforcement.trade.gov/frn/index.html.*

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the margin calculation for Negromex.[7]

Final Results of Administrative Review

We are assigning the following dumping margin to the firm listed below for the POR, September 1, 2018, through August 31, 2019:

Producers/exporters	Weighted-average dumping margin (percent)
Industrias Negromex S.A. de C.V	23.26

Disclosure

We will disclose to interested parties the calculations performed in connection with these final results within five days of the publication of this notice, consistent with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise, in accordance with the final results of this review. Commerce

[1] *See Emulsion Styrene-Butadiene Rubber from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 7531 (January 29, 2021) (*Preliminary Results*).

[2] *See* Petitioner's Letter, ''Emulsion Styrene-Butadiene Rubber (E–SBR) from Mexico, Administrative Review 2018–2019: Case Brief and Request to Participate in Hearing,'' dated March 22, 2021.

[3] *See* Negromex's Letter, ''Emulsion Styrene-Butadiene Rubber from Mexico—Case Brief,'' dated March 22, 2021.

[4] *See* Petitioner's Letter, ''Emulsion Styrene-Butadiene Rubber (E–SBR) from Mexico, Administrative Review 2018–2019: Rebuttal Brief,'' dated March 29, 2021.

[5] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2018–2019,'' dated May 14, 2021.

[6] For a full description of the scope, *see* Memorandum, ''Emulsion Styrene-Butadiene Rubber from Mexico: Issues and Decision Memorandum for the Final Results of the 2018–2019 Antidumping Duty Administrative Review,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See* Issues and Decision Memorandum.

intends to issue appropriate assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

For Negromex, because its weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales to that importer and dividing each of these amounts by the total sales value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment rate is not zero or *de minimis.* Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis.*

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Negromex, for which Negromex did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[8]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For Negromex, the cash deposit rate will be the rate established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this administrative review, but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.52 percent, the all-others rate established in the LTFV investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 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 duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the 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 this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: July 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
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Comment 1: Rejection of Unsolicited New Factual Information (NFI)
Comment 2: Correction of a Calculation Error
VI. Recommendation

[FR Doc. 2021–16473 Filed 8–2–21; 8:45 am]

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[8] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Antidumping Duty Orders,* 82 FR 42790 (September 12, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–806]

Certain Pasta From the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are not being provided to Bessan Makarna Gida San. ve Tic. A.S., a producer/exporter of certain pasta from the Republic of Turkey. The period of review (POR) is January 1, 2019, through December 31, 2019. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Theodore Pearson or Richard Roberts, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2631 or 202–482–3464, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1996, Commerce published in the **Federal Register** the countervailing duty (CVD) order on certain pasta from the Republic of Turkey (Turkey).[1] On September 3, 2020, Commerce published an initiation notice for an administrative review of the *Order.*[2] On March 19, 2021 Commerce extended the deadline for these preliminary results to no later than July 30, 2021.[3] For a complete description of the events that followed the *Initiation Notice, see* the Preliminary Decision Memorandum.[4]

[1] *See Countervailing Duty Order; Certain Pasta from Turkey,* 61 FR 38546 (July 14, 1996) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 19730 (April 8, 2020).

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2019,'' dated March 19, 2021.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of 2019 Countervailing Duty Administrative Review: Pasta from Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Order

The products covered by the *Order* are certain pasta from Turkey. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is included as an appendix to this notice.

Preliminary Results of the Review

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily determine that Bessan did not receive countervailable subsidies during the POR:

Producer/exporter	Subsidy rate (percent)
Bessan Makarna Gida San. ve Tic. A.S	0.00

Disclosure and Public Comment

We did not perform calculations for these preliminary results and, consequently, we do not have calculations to disclose in accordance with 19 CFR 351.224(b). Interested parties may submit written comments (case briefs) on the preliminary results no later than 30 days from the date of publication of this **Federal Register** notice,[5] and rebuttal comments (rebuttal briefs) within seven days after the time limit for filing case briefs.[6] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7] All briefs must be filed electronically using ACCESS. All briefs must be filed electronically using ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants, whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[8]

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9]

Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Assessment Rates

Consistent with 19 CFR 351.212(b)(4)(i), upon completion of the final results, consistent with 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. If Commerce continues to find that Bessan received no countervailable subsidies in the final results, Commerce intends to instruct CBP to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2019, through December 31, 2019, without regard to countervailing duties. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties at the rate determined in the final results. If Commerce continues to find that Bessan received no countervailable subsidies in the final results, no cash deposit will be required on shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, CBP will continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Diversification of Turkey's Economy
V. Subsidies Valuation
VI. Analysis of Programs
VII. Recommendation

[FR Doc. 2021–16475 Filed 8–2–21; 8:45 am]

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[5] *See* 19 CFR 351.309(c).

[6] *See* 19 CFR 351.309(d)(i); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] *See* 19 CFR 351.310(c).

[9] *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–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Amended Final Results of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on light-walled rectangular pipe and tube from Mexico to correct certain ministerial errors. The period of review is August 1, 2018, through July 31, 2019.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane or John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449 or (202) 482–1009, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2021, the Department of Commerce (Commerce) published its *Final Results* of the 2018–2019 administrative review of the AD order on light-walled rectangular pipe and tube from Mexico.[1] On July 6, 2021, Maquilacero S.A. de C.V (Maquilacero), one of the respondents in this administrative review, timely submitted ministerial error comments regarding Commerce's *Final Results.*[2] On July 8, 2021, Nucor Tubular Products, Inc., a domestic interested party, filed rebuttal comments concerning Maquilacero's allegations.[3] On July 12, 2021, Maquilacero filed ministerial error surrebuttal comments.[4] Commerce is amending its *Final Results* to correct certain ministerial errors alleged by Maquilacero.

Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the [Commerce] considers ministerial.'' [5] With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review. . . .''

Ministerial Errors

Commerce committed inadvertent, unintentional errors within the meaning of section 751(h) of the Act and 19 CFR 351.224(f) with respect to an adjustment to the currency conversion of the gross unit price for certain of Maquilacero's home market sales, an adjustment to Maquilacero's scrap offset, the duplication of certain computer programming steps concerning Maquilacero's costs of production, and an adjustment to the further processing costs of Maquilacero's affiliate Tecnicas de Fluidos S.A. de C.V. Accordingly, Commerce determines that, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), it made certain ministerial errors in the *Final Results.*

For a complete description and analysis of Maquilacero's ministerial error allegations, please see the accompanying Ministerial Error Allegations Memorandum.[6] The Ministerial Error Allegations 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.*

Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of certain ministerial errors in the calculation of the weighted-average dumping margin assigned to Maquilacero in the *Final Results,* which changes from 4.23 percent to 3.13 percent.[7] Furthermore, we are revising the review-specific, weighted-average dumping margin applicable to the companies not selected for individual examination in this administrative review, which is based, in part, on Maquilacero's weighted-average dumping margin.[8] For the companies which were not selected for individual examination, we have calculated their weighted-average dumping margin as the weighted average of the weighted-average dumping margins determined for the two mandatory respondents where the weights are the publicly ranged quantities sold by each of the mandatory respondents.

Amended Final Results of the Review

As a result of correcting these ministerial errors, Commerce determines that, for the period of August 1, 2018, through July 31, 2019, the following weighted-average dumping margins exist:

Exporter or producer	Weighted-average dumping margin (percent)
Maquilacero S.A. de C.V. and Tecnicas de Fluidos S.A. de C.V.	3.13
Regiomontana de Perfiles y Tubos S. de R.L. de C.V. (formerly Regiomontana de Perfiles y Tubos S.A. de C.V.) [9] [10]	5.44
Aceros Cuatro Caminos S.A. de C.V.	4.44
Fabricaciones y Servicios de Mexico	4.44
Grupo Estructuras y Perfiles	4.44

[1] *See Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 33646 (June 25, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See* Maquilacero's Letter, ''Maquilacero S.A. de C.V.'s Ministerial Error Comments for the Final Results,'' dated July 6, 2021.

[3] *See* Nucor's Letter, ''Comments on Maquilacero's Ministerial Errors,'' dated July 8, 2021.

[4] *See* Maquilacero's Letter, ''Maquilacero S.A. de C.V.'s Rebuttal Ministerial Error Comments for the Final Results,'' dated July 12, 2021.

[5] *See also* 19 CFR 351.224(f).

[6] *See* Memorandum, ''Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Mexico; 2018–2019: Ministerial Error Allegations,'' dated concurrently with, and hereby adopted by, this notice (Ministerial Error Allegations Memorandum).

[7] *Id.*

[8] In the case of two mandatory respondents, our practice is to calculate: (A) A weighted average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents: and (C) a weighted average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2014–2016,* 82 FR 31555, 31556 (July 7, 2017). We have applied that practice here. *See* Memorandum, ''Calculation of Margin for Respondents Not Selected for Individual Examination,'' dated concurrently with this notice.

Exporter or producer	Weighted-average dumping margin (percent)
Perfiles LM, S.A. de C.V.	4.44
Productos Laminados de Monterrey S.A. de C.V.	4.44

Disclosure

We intend to disclose the calculation performed for these amended final results in accordance with 19 CFR 351.224(b).

Antidumping Duty Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these amended final results of the administrative review.

In accordance with 19 CFR 351.212(b)(1), Maquilacero and Regiomontana de Perfiles y Tubos S. de R.L. de C.V. reported the entered value of their U.S. sales such that we calculated importer-specific *ad valorem* AD assessment rates based on the ratio of the total amount of dumping calculated for the examined sales for each importer to the total entered value of the sales for each importer. Where an importer-specific AD assessment rate is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

For the companies which were not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* assessment rate equal to the weighted-average dumping margins determined in these amended final results.

The amended final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the amended final results of this review and for future deposits of estimated duties, where applicable.[12] Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the amended final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively for all shipments of subject merchandise that entered, or were withdrawn from warehouse, for consumption on or after June 25, 2021, the date of publication of the *Final Results* of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in these amended final results of review; (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 3.76 percent established in the less-than-fair-value investigation.[13]

These cash 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)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition 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 return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

The amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: July 28, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–16494 Filed 8–2–21; 8:45 am]

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[9] In the *Final Results,* we determined that Regiomontana de Perfiles y Tubos S. de R.L. de C.V. to be successor-in-interest to Regiomontana de Perfiles y Tubos S.A. de C.V.

[10] The weighted-average dumping margin for Regionmontana de Perfiles y Tubos S. de R.L. de C.V. remains unchanged from the *Final Results.*

[11] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[12] *See* section 751(a)(2)(C) of the Act.

[13] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–817]

Certain Oil Country Tubular Goods From the Social Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) finds that exporters of oil country tubular goods (OCTG) from the Socialist Republic of Vietnam (Vietnam) did not sell subject merchandise in the United States at prices below normal value during the period of review (POR) September 1, 2018, through August 31, 2019.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2924.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on OCTG from Vietnam in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). On January 28, 2021, Commerce published the *Preliminary Results* of this administrative review.[1] On March 10, 2021, we received case briefs from Maverick Tube Corporation, Tenaris Bay City, Inc., and IPSCO Tubulars, Inc. (the petitioners) and from SeAH Steel VINA Corporation SeAH VINA and Pusan Pipe America, Inc. (Pusan Pipe) (collectively, SSV).[2] On March 17, 2021, the petitioners and SSV submitted rebuttal briefs.[3] On May 18, 2021, we extended the deadline for the final results of review until July 27, 2021.[4]

For a complete description of the events that followed the *Preliminary Results* of this administrative review, *see* the Issues and Decision Memorandum, dated concurrently with these final results and hereby adopted by this notice.[5] 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 on the internet at *http://enforcement.trade.gov/frn/index.html.*

Scope of the Order

The merchandise covered by the order is OCTG from Vietnam. For a full description of the merchandise covered by the scope of the antidumping duty order on OCTG from Vietnam, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs filed by interested parties in the Issues and Decision Memorandum. Attached to this notice as an appendix is a list of the issues which parties raised.

Verification

Commerce was unable to conduct an on-site verification of the information relied upon in reaching these final results of review as provided for in section 782(i)(3) of the Act. Accordingly, in lieu of an on-site verification, we requested additional documentation and information from SSV.[6]

Changes Since the Preliminary Results

Based on our analysis of the comments received, we made certain changes to the margin calculation. For a discussion of the issues, see the Issues and Decision Memorandum.

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for the period September 1, 2018, through August 31, 2019:

Exporter	Weighted-average dumping margin (percent)
SeAH Steel VINA Corporation [7]	0.00

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Consistent with Commerce's assessment practice in non-market economy cases, for entries that were not reported in the U.S. sales database submitted by companies individually examined during the administrative review, Commerce will instruct CBP to liquidate such entries at the Vietnam-wide rate. Additionally, if Commerce determines that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under the exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the Vietnam-wide rate.[8]

Consistent with its recent notice,[9] Commerce intends to issue assessment

[1] *See Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 86 FR 7358 (January 28, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Petitioners' Letter, ''Oil Country Tubular Goods from the Socialist Republic of Vietnam: Case Brief of Maverick Tube Corporation, Tenaris Bay City, Inc., and IPSCO Tubulars Inc.,'' dated March 10, 2021; SSV's Case Brief, ''Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from Vietnam—Case Brief of SeAH Steel VINA Corporation and Pusan Pipe America, Inc.,'' dated March 10, 2021.

[3] *See* Petitioners' Letter, ''Oil Country Tubular Goods from the Socialist Republic of Vietnam: Rebuttal Brief of Maverick Tube Corporation, Tenaris Bay City, Inc., and IPSCO Tubulars Inc.,'' dated March 17, 2021; SSV Rebuttal Brief, ''Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from Vietnam—Rebuttal Brief of SeAH Steel VINA Corporation and Pusan Pipe America, Inc.,'' dated March 17, 2021.

[4] *See* Memorandum, ''Oil Country Tubular Goods from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated May 18, 2021.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from the Socialist Republic of Vietnam,'' dated concurrently with this notice (Issues and Decision Memorandum).

[6] *See* Commerce's Letter, dated February 19, 2021; *see also* SSV's Letter, ''Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Vietnam—Response to the Department's February 19 In Lieu of Verification Questionnaire,'' dated February 26, 2021.

[7] Commerce initiated a review of both SeAH VINA and Pusan Pipe, but the record shows that Pusan Pipe is a U.S. importer of OCTG that is affiliated with SeAH VINA and does not produce or export OCTG. *See* SSV's Letter, ''Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from Vietnam—Response to the Department's November 15 Questionnaire,'' dated December 13, 2019 at 1. Therefore, we have not calculated a rate for Pusan Pipe.

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[9] *See Notice of Discontinuation Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For SeAH VINA, a zero cash deposit rate; (2) for previously investigated or reviewed Vietnamese and non-Vietnamese 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 exporter-specific rate published for the most-recently completed segment of this proceeding in which the exporter was reviewed; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate established for the Vietnam-wide entity, which is 111.47 percent; [10] and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied that non-Vietnamese exporter with the subject merchandise. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 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 duties occurred and the subsequent assessment of doubled antidumping duties.

[10] *See Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value,* 79 FR 53691 (September 10, 2014).

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of the Issues
Comment 1: Adverse Facts Available
Comment 2: Surrogate Country
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Comment 4: Brokerage and Handling
Comment 5: Inland Freight
Comment 6: Differential Pricing
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Comment 8: Section 232 Duties
Comment 9: Ministerial Errors
VI. Recommendation

[FR Doc. 2021–16474 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders and findings with June anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders and findings with June anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to

[2] *See* Trade Preferences Extension Act of 2015, Pubic Law 114–27, 129 Stat. 362 (2015).

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for respondent selection. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews: In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than June 30, 2022.

	Period to be Reviewed
AD Proceedings	
GERMANY: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–428–845	6/1/20–5/31/21
Benteler Distribution International GmbH	
Benteler Steel/Tube GmbH	
Mubea Fahrwerksfedern GmbH	
Salzgitter Mannesmann Line Pipe GmbH	
Salzgitter Mannesmann Precision GmbH	
INDIA: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–533–873	6/1/20–5/31/21
Tube Products of India, Ltd., a unit of Tube Investments of India Limited (collectively "TPI")	
INDIA: Glycine, A–533–883	6/1/20–5/31/21
Avid Organics Private Limited	
GEM Corpochem Private Limited	
Indiana Chem-Port	
J.R. Corporation	
Kumar Industries	
Mulji Mehta Enterprises	
Mulji Mehta Pharma	
Paras Intermediates Private Ltd.	
Rexisize Rasayan Industries	
Rudraa International	
Studio Disrupt	
INDIA: Quartz Surface Products, A–533–889	12/13/19–5/31/21
Alicante Surfaces Pvt., Ltd.	
Antique Granito Shareholders Trust	
Antique Marbonite Private Limited	
Argil Ceramic Private Limited	
Argil Ceramics	
ARO Granite Industries Limited	
Asian Granito India Ltd	
Baba Super Minerals Pvt. Ltd.	
Camrola Quartz Limited	
Chaitanya International Minerals LLP	
Chariot International Pvt. Ltd.	
Colors Of Rainbow	
Creative Quartz LLP	
Cuarzo	
Divyashakti Granites Limited	
Esprit Stones Pvt., Ltd.	
Global Stones Private Limited	
Globalfair Technologies Pvt.	
Glowstone Industries Private Limited	
Gupta Marbles	
Gyan Chand Lodha	
Hi Elite Quartz LLP	
Hilltop Stones Pvt., Ltd.	
Inani Marbles and Industries Ltd.	
International Stones India Private Limited	
Jennex Granite Industries	
Jessie Kan Granite Inc.	
Keros Stone LLP	
M.B. Granites Private Ltd.	
Mahi Granites Private Limited.	
Malbros Marbles & Granites Industries	
Marudhar Rocks International Pvt. Ltd.	

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be Reviewed
Mountmine Imp. & Exp. Pvt., Ltd.	
P.M. Quartz Surfaces Pvt., Ltd.	
Pacific Industries Limited	
Pacific Quartz Surfaces LLP	
Pangaea Stone International Private Ltd.	
Paradigm Granite Pvt., Ltd.	
Paradigm Stone India Private Limited	
Pelican Quartz Stone	
Pokarna Engineered Stone Limited	
Prism Johnson Limited	
Quartzkraft LLP	
Rocks Forever	
Rose Marbles Ltd.	
Safayar Ceramics Private Ltd.	
Satya Exports	
Shivam Enterprises	
Southern Rocks and Minerals Private Limited	
Stone Imp. & Exp. (India) Pvt., Ltd.	
Stoneby India LLP	
Sunex Stones Private Ltd.	
Tab India Granites Pvt., Ltd.	
Ultima International	
Vishwas Ceramic	
Vishwas Exp.	
Yash Gems	
ITALY: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–475–838	6/1/20–5/31/21
Dalmine S.p.A.	
Metalfer SpA	
JAPAN: Carbon and Alloy Seamless Standard, Line, and Pressure (over 4½ inches), A–588–850	6/1/20–5/31/21
JFE Shoji Corporation	
JFE Steel Corporation	
K and I Tubular Corporation	
K I Tubular Corporation	
K&I Tubular Corporation	
Kanematsu Corporation	
Mitsui & Co Ltd	
Mitsui & Co., Ltd (SAS)	
Mitsui and Co., Ltd	
Okaya & Co., Ltd	
Sumitomo Corporation	
JAPAN: Carbon and Alloy Seamless Standard, Line, and Pressure (under 4½ inches), A–588–851	6/1/20–5/31/21
JFE Shoji Corporation	
JFE Steel Corporation	
K and I Tubular Corporation	
K I Tubular Corporation	
K&I Tubular Corporation	
Kanematsu Corporation	
Mitsui & Co Ltd	
Mitsui & Co., Ltd (SAS)	
Mitsui and Co., Ltd	
Okaya & Co., Ltd	
Sumitomo Corporation	
JAPAN: Glycine, A–588–878	6/1/20–5/31/21
Yuki Gosei Kogyo Co., Ltd.	
Nagase & Co., Ltd.	
Showa Denko K.K.	
Yasunaga Trading Co., Ltd.	
SPAIN: Finished Carbon Steel Flanges, A–469–815	6/1/20–5/31/21
Aleaciones De Metales Sinterizados S.A.	
Central Y Almacenes	
Farina Group Spain	
Friedrich Geldbach Gmbh	
Grupo Cunado	
Transglory S.A.	
Tubacero, S.L.	
ULMA Forja, S.Coop	
SWITZERLAND: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–441–801	6/1/20–5/31/21
Benteler Rothrist AG	
Mubea Inc.	
Mubea Präzisionsstahlrohr AG	
THE PEOPLE'S REPUBLIC OF CHINA: Chlorinated Isocyanurates, A–570–898	6/1/20–5/31/21
Heze Huayi Chemical Co., Ltd.	
Juancheng Kangtai Chemical Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Tapered Roller Bearings, A–570–601	6/1/20–5/31/21

	Period to be Reviewed
C&U Group Shanghai Bearing Co., Ltd.	
Changshan Peer Bearing Co., Ltd.	
GGB Bearing Technology (Suzhou) Co., Ltd.	
Hangzhou C&U Automotive Bearing Co., Ltd.	
Hangzhou C&U Metallurgy Bearing Co., Ltd.	
Hebei Xintai Bearing Forging Co., Ltd	
Huangshi C&U Bearing Co., Ltd	
Shanghai Tainai Bearing Co., Ltd.	
Sichuan C&U Bearing Co., Ltd.	
Xinchang Newsun Xintianlong Precision Bearing Manufacturing Co., Ltd	
Zhejiang Jingli Bearing Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wooden Cabinets and Vanities and Components Thereof,[5] A–570–106	10/9/19–3/31/21
Hangzhou Hoca Kitchen & Bath Products Co., Ltd.	
Linyi Bonn Flooring Manufacturing Co., Ltd.	
TURKEY: Large Diameter Welded Pipe,[6] A–489–833	5/1/20–4/30/21
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	
TURKEY: Quartz Surface Products, A–489–837	12/13/19–5/31/21
Belenco Dis Ticaret A.S.	
CVD Proceedings	
INDIA: Glycine, C–533–884	1/1/20–12/31/20
Avid Organics Private Limited	
Indiana Chem-Port	
J.R. Corporation	
Kumar Industries	
Mulji Mehta Enterprises	
Mulji Mehta Pharma	
Paras Intermediates Private Ltd.	
Rexisize Rasayan Industries	
Rudraa International	
Studio Disrupt	
INDIA: Quartz Surface Products, C–533–890	10/11/19–12/31/20
Antique Marbonite Pvt. Ltd.	
Argil Ceramics	
ARO Granite Industries Limited	
Baba Super Minerals Pvt. Ltd.	
Camrola Quartz Limited	
Cuarzo	
Divyashakti Granites Limited	
Esprit Stones Pvt. Ltd.	
Global Stones Pvt. Ltd.	
Hi Elite Quartz LLP, India	
Keros Stone LLP	
Mahi Granites Pvt. Ltd.	
Malbros Marbles & Granites Industries	
Pacific Industries Limited	
Pacific Quartz Surfaces LLP	
Paradigm Stone India Pvt. Ltd.	
Pelican Quartz Stone	
Pokarna Engineered Stone Limited	
Rocks Forever	
Satya Exports	
Shivam Enterprises	
Southern Rocks and Minerals Pvt. Ltd	
Sunex Stones Private Limited, India	
Tab India Granites Private Limited, India	
THE PEOPLE'S REPUBLIC OF CHINA: Glycine, C–570–081	1/1/20–12/31/20
A.H.A. International Co., Ltd.	
Aqua Bond Inc.	
Baoding Mantong Fine Chemistry Co., Ltd.	
Beijing Lanjian Xingda Industrial & Trade Co., Ltd.	
Elementis, Srl, Inc.	
Hebei Changhao Biotechnology Co., Ltd.	
Hebei Pushi Yongdao Trade Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: High Pressure Steel Cylinders, C–570–978	1/1/20–12/31/20
Beijing Tianhai Industry Co., Ltd.	
Tianjin Tianhai High Pressure Container Co., Ltd.[7]	
Langfang Tianhai High Pressure Container Co., Ltd	
THE PEOPLE'S REPUBLIC OF CHINA: Wooden Cabinets and Vanities and Components Thereof,[8] C–570–107	8/12/19–12/31/20
Hangzhou Hoca Kitchen & Bath Products Co., Ltd.	
Linyi Bonn Flooring Manufacturing Co., Ltd	
TURKEY: Large Diameter Welded Pipe,[9] C–489–834 1/1/20–12/31/20	
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	
TURKEY: Quartz Surface Products, C–489–838	10/11/19–12/31/20
Belenco Dis Ticaret A.S.	

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[10] available at *https://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[12] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[13] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the

[5] The initiation notice published on June 11, 2021 (86 FR 31282) listed the names of two companies incorrectly. The names were incorrectly listed as Hangzhou Hoco Kitchen & Bath Products Co., Ltd. and Linyi Bonn Flooring Manufacture Co., Ltd. However, the correct spellings are Hangzhou Hoca Kitchen & Bath Products Co., Ltd. and Linyi Bonn Flooring Manufacturing Co., Ltd. as listed in this initiation notice. *See* Memorandum, ''Antidumping Duty Administrative Review of Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China; Correction to Company Names,'' dated July 20, 2021.

[6] In the initiation notice that published on July 6, 2021 (86 FR 35481), Commerce omitted Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan). We note that subject merchandise produced and exported by Borusan was excluded from the order effective June 1, 2020. *See Large Diameter Welded Pipe from the Republic of Turkey: Notice of Court Decision Not in Harmony With Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part,* 85 FR 35262, 35264 (June 9, 2020). Commerce also stated in this notice that it would not initiate any new reviews of Borusan's entries. Accordingly, we are initiating this administrative review with respect to Borusan only for subject merchandise produced in Turkey where Borusan acted as either the manufacturer or exporter (but not both).

[7] This company is also known as Tianjin Tianhai High Pressure Corp., Ltd.

[8] The initiation notice published on June 11, 2021 (86 FR 31282) listed the names of two companies incorrectly. The names were incorrectly listed as Hangzhou Hoco Kitchen & bath Products Co., Ltd. and Linyi Bonn Flooring Manufacture Co., Ltd. However, the correct spellings are Hangzhou Hoca Kitchen & Bath Products Co., Ltd. and Linyi Bonn Flooring Manufacturing Co., Ltd. as listed in this initiation notice. *See* Husch Blackwell LLP's Letter, ''Wooden Cabinets and Vanities from the People's Republic of China: Name Corrections,'' dated July 23, 2021.

[9] In the initiation notice that published on July 6, 2021 (86 FR 35481), Commerce omitted Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan). We note that subject merchandise produced and exported by Borusan was excluded from the order. *See Large Diameter Welded Pipe From the Republic of Turkey: Countervailing Duty Order,* 84 FR 18771, 18772 (May 2, 2019). Accordingly, we are initiating this administrative review with respect to Borusan only for subject merchandise produced in Turkey where Borusan acted as either the manufacturer or exporter (but not both).

[10] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[12] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[13] *See* 19 CFR 351.302.

deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: July 29, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–16497 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain pasta (pasta) from Italy, covering the period July 1, 2019, through June 30, 2020. We preliminarily determine that La Molisana S.p.A. (La Molisana) sold pasta from Italy at less than normal value during the period of review (POR), and that Liguori Pastificio dal 1820 S.p.A. (Liguori) and Pastificio Della Forma S.r.l. (Della Forma) did not sell subject merchandise at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Jonathan Hall-Eastman and John Hoffner, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1468 and (202) 482–3315, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, Commerce published the AD order in the **Federal Register**.[1] On September 3, 2020, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the *Order* covering the following companies: Agritalia S.r.L., Armonie D'Italia srl, F. Divella S.p.A., La Molisana, Liguori, Pasta Castiglioni, Pasta Zara, S.p.A, Pastificio Della Forma S.r.l. (Della Forma), Pastificio C.A.M.S. Srl, and Pastificio Fratelli De Luca S.r.l, and Rummo S.p.A. (Rummo).[2] On February 1, 2021, Commerce rescinded the review of Rummo and its subsidiary Pasta Castiglioni.[3] On October 15, 2010, we selected La Molisana and Liguori for individual examination in this review.[4] Further, we have preliminarily collapsed Liguori and Della Forma and have considered these two companies to constitute a single entity.[5]

On March 2, 2021, Commerce extended the deadline for the preliminary results to July 30, 2021.[6] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[7]

Scope of the Order

The products covered by this order are certain pasta from Italy. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Export price was calculated in accordance with section 772 of the Act. Normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

Rate for Non-Selected Companies

The statute and Commerce's regulations do not address the determination of a weighted-average dumping margin for individual 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 determining the weighted-average dumping margin for companies which we did not examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis,* or based entirely on facts available in calculating an all-others rate. Accordingly, Commerce's practice in an administrative review has been to average the weighted-average dumping margins for the companies selected for individual examination in the administrative review, excluding rates that are zero, *de minimis,* or based entirely on facts available.[8] For the preliminary results of this review, we calculated a weighted-average dumping margin for La Molisana that is not zero, *de minimis* or based entirely on facts available, while we have calculated a weighted-average dumping margin for Liguori/Della Forma that is *de minimis.* Therefore, consistent with our practice, we have determined the weighted-average dumping margin for the companies not selected for individual examination that is equal to the

[1] *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 38547 (July 24, 1996) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020).

[3] *See Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 86 FR 7700 (February 1, 2021).

[4] *See* Memorandum, ''2019–2020 Antidumping Duty Administrative Review of Certain Pasta from Italy: Respondent Selection,'' dated October 15, 2020.

[5] *See* Memorandum, ''Preliminary Affiliation and Collapsing Memorandum for Liguori Pastificio dal 1820 S.p.A. and Pastificio della Forma S.r.l,'' dated concurrently with this notice.

[6] *See* Memorandum, ''Certain Pasta: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2019/2020,'' dated March 2, 2021.

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta from Italy; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[8] *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

weighted-average dumping margin calculated for La Molisana.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins exist for the POR:

Exporter or producer	Weighted-average dumping margin (percent)
La Molisana S.p.A	1.61
Liguori Pastificio dal 1820 S.p.A. and Pastificio Della Forma S.r.l	0.00
Review-Specific Average Rate Applicable to the Following Companies	
Agritalia S.r.L	1.61
Armonie D'Italia srl	1.61
F. Divella S.p.A	1.61
Pasta Zara, S.p.A./Ghigi 1870 S.p.A.[9]	1.61
Pastificio C.A.M.S. Srl	1.61
Pastificio Fratelli De Luca S.r.l	1.61

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. If a mandatory respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).[10] If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's reseller policy, for entries of subject merchandise during the POR produced or exported by produced by La Molisana or Liguori/Della Forma which did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate of 15.45 percent, the all-others rate established in the less-than-fair-value (LTFV) investigation as modified by the section 129 determination.[11]

For the companies which were not individually examined, we will instruct CBP to assess antidumping duties at a rate that is equal to the company-specific weighted-average dumping margin determined in the final results of review.

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable.

We intend to issue liquidation instructions to CBP no earlier than 35 days after date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The cash deposit rate for companies subject to this review will be as follows: (1) For the companies listed above in the final results of review, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by a company not covered in this review but covered in a prior completed segment of this proceeding, then the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior completed review, or the LTFV investigation but the producer is, then the cash deposit rate will be the company-specific rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers and exporters will continue to be the 15.45 percent, the all-others rate established in the section 129 review subsequent to the LTFV investigation.[12]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed in these preliminary results to parties in this proceeding within five days of the date of publication of this notice.[13]

Public Comment

Pursuant to 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 raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[14] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location hearing two days before the scheduled date.

All briefs must be filed electronically using ACCESS.[16] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the date that the submission is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[17]

Final Results of Review

We intend to issue the final results of this administrative review, including

[9] Though there was no request for review of Ghigi 1870 S.p.A., Commerce previously collapsed Ghigi 1870 S, p, A, and Pasta Zara S.p.A. *See Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 36126 (August 3, 2017), and accompanying Preliminary Decision Memorandum at 5; unchanged in *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 5742 (December 5, 2017).

[10] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[11] *See Implementation of the Findings of the WTO Panel in US—Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders,* 72 FR 25261 (May 4, 2007).

[12] *Id.*

[13] *See* 19 CFR 351.224(b).

[14] *See* 19 CFR 351.309(d)(1) and (2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

[16] *See generally* 19 CFR 351.303.

[17] *See Temporary Rule.*

the results of our analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1).

Dated: July 28, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Affiliation and Collapsing
V. Discussion of the Methodology
VI. Recommendation

[FR Doc. 2021–16498 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) continues to find that Tianjin Magnesium International, Co., Ltd. and Tianjin Magnesium Metal, Co., Ltd. (collectively TMI/TMM) had no shipments of subject merchandise covered by the antidumping duty order on pure magnesium from the People's Republic of China (China) for the period of review (POR) May 1, 2019, through April 30, 2020.

DATES: Applicable August 3, 2021.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2021, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[1] No interested party submitted comments concerning the *Preliminary Results* or requested a hearing in this administrative review. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The current deadline for these final results is August 2, 2021.

Scope of the Order [2]

The product covered by the *Order* is pure magnesium from China, regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as ''ultra pure'' magnesium) Magnesium Alloy'' [3] and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as ''alloy'' magnesium).

(2) Products that contain less than 99.95%, but not less than 99.8%, primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as ''off-specification pure'' magnesium).

''Off-specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the *Order* are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.,* length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the *Order* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined TMI/TMM [4] had no shipments of subject merchandise to the

[1] *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2019–20,* 86 FR 17360 (April 2, 2021) (*Preliminary Results*).

[2] *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995) (*Order*).

[3] The meaning of this term is the same as that used by the American Society for Testing and Materials (ASTM) in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[4] In the 2011–2012 administrative review of the *Order,* Commerce collapsed TMM and TMI, and treated the companies as a single entity for purposes of the proceeding. Because there were no changes to the facts which supported that decision since that determination was made, we continue to treat these companies as part of a single entity for this administrative review. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 94 (January 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

United States during the POR.[5] As noted in the *Preliminary Results,* we received no-shipment certifications from TMI/TMM, and the certifications were consistent with the information we received from U.S. Customs and Border Protection (CBP).[6] Because Commerce did not receive any comments on its preliminary finding, Commerce continues to find that TMI/TMM did not have any shipments of subject merchandise during the POR.

Assessment Rates

We have not calculated any assessment rates in this administrative review. Based on record evidence, we have determined that TMI/TMM had no shipments of subject merchandise during the POR, and, therefore, pursuant to Commerce's assessment practice, any suspended entries entered under the companies' case number will be liquidated at the China-wide entity rate.[7]

Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of 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 previously investigated or reviewed Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, including TMI/TMM, the cash deposit rate will continue to be the existing exporter-specific rate; (2) 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 the China-wide rate of 111.73 percent; [8] and (3) 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(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protection Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a) and 777(i) of the Act, and 19 CFR 351.213(h).

Dated: July 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–16477 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Preliminary Results.*

[6] On November 19, 2020, Commerce transmitted a ''no shipments'' inquiry to CBP requesting that it provide any information to the contrary should the information exist. On November 24, 2020, CBP confirmed that no shipments related to TMI/TMM were found. *See* Memorandum, ''Release of U.S. Customs and Border Protection Data,'' dated March 1, 2021.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[8] *See Pure Magnesium from the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 75 FR 80791 (December 23, 2010).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB291]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team will hold a public meeting.

DATES: The meeting will be held Thursday, August 19, 2021, from 10 a.m. to 4 p.m. Pacific Daylight Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The primary purpose of this online meeting is to discuss and potentially develop reports for the Pacific Council's September meeting. Topics may include Ecosystem and Administrative agenda items, including Standardized Bycatch Reporting Methodology. An agenda will be available on the Pacific Council's website in advance of the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: July 28, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–16466 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB280]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene Monday, August 23 at 8:15 a.m. to 5:30 p.m., CDT. Tuesday, August 24, 2021 through Wednesday, August 25, 2021 at 8:30 a.m. to 5:30 p.m., CDT and on Thursday August 26, 2021 at 8:30 a.m. to 5 p.m. CDT.

ADDRESSES:

Meeting address: The meeting will take place at the Hilton Palacio del Rio, 200 South Alamo Street, San Antonio, TX 78205.

Please note, meeting attendees will be expected to follow any current COVID–19 safety protocols as determined by the Council, hotel and the City of San Antonio. Such precautions may include masks, room capacity restrictions, and/or social distancing. If you prefer to ''listen in'', you may access the log-on information by visiting our website at *www.gulfcouncil.org.*

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, August 23, 2021; 8:15 a.m.–5:30 p.m.

The meeting will begin open to the public with Full Council Session to Induct New Council Members and Re-Appoint Council members. Committee sessions will begin at 8:30 a.m. with the Administrative/Budget Committee will discuss modifications to the Statement of Organization Practices and Procedures (SOPPs) for Scientific and Statistical Committees (SSC) Memberships and SSC's Best Voting Practices and Procedures. The Committee will receive a presentation on the 2019–20 Audit Results and discuss SSC Stipends.

The Shrimp Committee will receive an update on Effort Data Collection for 2021, review Draft Framework Action: Modifications to the Gulf of Mexico Federal Shrimp Fishery Effort Monitoring and Reporting, and Section 7 Consultation on the Shrimp Industry and Protected Species.

The Mackerel Committee will convene after lunch. They will review Coastal Migratory Pelagics (CMP) Landings, Public Hearing Draft Amendment 32: Modifications to the Gulf of Mexico Migratory Group Cobia Catch Limits, Possession Limits, Size Limits and Framework Procedure, receive clarification on Gulf King Mackerel Commercial Historical Landings Data and SSC recommendations, and review Draft Amendment 33: Modifications to the Gulf of Mexico Migratory Group *King* Mackerel Catch Limits and Sector Allocations and CMP Advisory Panel recommendations.

The Sustainable Fisheries Committee will receive an update on Historical Captain Permits Conversion; review National Standard 1 (NS1) Technical Guidance Subgroup 3 Technical Memo—Managing with Annual Catch Limits (ACLs) for Data-limited Stocks in Federal Fishery Management Plans and Using Field Experiments to Assess Alternative Mechanisms for Distributing Fish to the Recreational Sector, and SSC Recommendations.

The public meeting will adjourn for the day at approximately 4:15 p.m. and the Council will move in to a *Full Council—Closed Session* for the remainder of the day for the Selection of Special Coral, Mackerel and Shrimp Scientific and Statistical Committee (SSC) Members.

Tuesday, August 24, 2021; 8:30 a.m.–5:30 p.m.

The Reef Fish Committee will convene to review Reef Fish Landings and Individual Fishing Quota (IFQ) Landings, Draft Framework Action: Modification of Gulf of Mexico Red Grouper Annual Catch Limits and receive a presentation on Greater Amberjack Calibrated Landings and Catch Limits, and Proposed Management Alternatives. The Committee will review and discuss Implementation of the DESCEND Act of 2020, Updates on 2021 Red Snapper State Management Programs, Final Document—Framework Action: Gulf of Mexico Red Snapper Recreational Data Calibration and Recreational Catch Limits, Reef Fish Amendments 36B and 36C: Modifications to Individual Fishing Quota (IFQ) Programs, and Draft Snapper Grouper Amendment 44 and Reef Fish Amendment 55: Modifications to Southeastern U.S. Yellowtail Snapper Jurisdictional Allocations, Catch Limits, and South Atlantic Sector Annual Catch Limits. The Committee will receive a presentation on Sector Separation for Four Reef Fish Species.

Immediately following the Reef Fish Committee Virtual and In-person Gulf of Mexico Fishery Management Council and National Oceanic and Atmospheric Administration (NOAA) will hold an informal Question and Answer Session.

Wednesday, August 25, 2021; 8:30 a.m.–5:30 p.m.

The Data Collection Committee will receive an update on Southeast For-hire Electronic Reporting (SEFHIER) Program and a presentation on Draft Options for Electronic Reporting due to Equipment Failure.

The Habitat Protection and Restoration Committee will receive a presentation from Bureau of Ocean Energy Management (BOEM) on Renewable Wind Energy and review Draft: Generic Essential Fish Habitat Amendment and SSC recommendations.

The Law Enforcement Committee will review the meeting summary from the March 2021 meeting and approve the Cooperative Law Enforcement Strategic Plan 2021–24 and Operations Plan 2021–22.

Following lunch, at approximately 1:30 p.m., the Council will reconvene with a Call to Order, Announcements and Introductions, presentation of the 2020 Law Enforcement Team of the Year Award, Adoption of Agenda and Approval of Minutes. The Council will receive presentations on Movement Patterns and Discard Mortality of Cobia in the Gulf of Mexico (GOM) and Assessing the Influence of *Sargassum* Habitat on Greater Amberjack Recruitment in the GOM.

The Council will hold public testimony from 2:45 p.m. to 5:30 p.m., EDT for Potential Reconsideration of Final Document—Framework Action: Gulf of Mexico Red Snapper Recreational Data Calibration and Recreational Catch Limits, and open testimony on other fishery issues or concerns. Public comment may begin earlier than 2:45 p.m. EDT, but will not

conclude before that time. Persons wishing to give public testimony in-person must register at the registration kiosk in the meeting room.

Thursday, August 26, 2021; 8:30 a.m.–5 p.m.

The Council will receive committee reports from Administrative/Budget, Shrimp, Mackerel, Habitat Protection and Restoration, Sustainable Fisheries, Data Collection, Law Enforcement, and Reef Fish Management Committees, and report on the Closed Session. The Council will receive updates from the following supporting agencies: South Atlantic Fishery Management Council; Texas Law Enforcement Efforts; NOAA Office of Law Enforcement (OLE); Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and Department of State.

The Council will discuss any Other Business items; and, hold an Election for Chair and Vice-Chair.

—Meeting Adjourns

The meeting will be an in-person meeting only. You may register for the webinar to listen-in only by visiting *www.gulfcouncil.org* and click on the Council meeting on the calendar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on the website as they become available.

Although other non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: July 28, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–16465 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB271]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Gulf of Maine Research Institute has requested a change to a previously issued exempted fishing permit which would result in new regulatory exemptions for participating vessels. The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has determined that this request is outside the scope of the initially approved exempted fishing permit. As a result, regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on the proposed changes to the exempted fishing permit previously issued to the Gulf of Maine Research Institute.

DATES: Comments must be received on or before August 18, 2021.

ADDRESSES: You may submit written comments by the following method:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''Modification to GMRI MREM EFP.''

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Policy Analyst, 978–281–9232.

SUPPLEMENTARY INFORMATION: On July 31, 2020, NMFS issued an exempted fishing permit (EFP) to the Gulf of Maine Research Institute (GMRI) in support of the development of maximized retention electronic monitoring (MREM) for the Northeast multispecies fishery. The EFP requires six participating vessels to retain all catch of undersized, allocated groundfish, with electronic monitoring (EM) used to verify compliance. The EFP currently exempts vessels from the requirement to adhere to their sector's monitoring program at 50 CFR 648.87(b)(1)(v)(B)); minimum fish size requirements at § 648.83(a) and § 648.14(a)(7); minimum mesh size requirements at § 648.80; and Closed Area II Closure Area at § 648.81(a)(5) from April 16 through January 31.

Additionally, the EFP as originally issued allowed vessels to use a 4.5-inch (11.43 cm) mesh codend rather than a 5.5-inch (13.97 cm) mesh codend normally required while participating in the redfish sector exemption, provided that all other exemption area requirements were complied with. This provision was written into the terms and conditions of the EFP, and was not implemented through a regulatory exemption. Prior to the publication of Framework Adjustment 61 to the Northeast Multispecies Fishery Management Plan (86 FR 40353, July 28, 2021), the redfish sector exemption was administered through sector operations plans which are approved each year, and was not defined in the regulations.

When Framework 61 was approved and implemented, the redfish exemption was added to the list of universal sector exemptions, and a sector redfish exemption program, corresponding to the universal exemption, was described in the regulations. These new regulations define terms of the program, including vessel eligibility, area, gear, monitoring thresholds, and other administrative elements of the exemption program.

Because the new regulations defining the sector redfish exemption program did not exist when the EFP was issued to GMRI, the EFP does not currently exempt participating vessels from any of them. Because Framework 61 is now effective, vessels participating in this EFP are no longer be able to participate in the sector redfish exemption program using 4.5-inch (11.43 cm) mesh as was intended.

On June 25, 2021, GMRI requested a modification to the EFP which would add an exemption to the minimum codend mesh size requirement for vessels fishing in the sector redfish exemption program, at § 648.85(e)(1)(vii)(A). Additionally, the modification would revise the conditions and requirements of the EFP that address the sector redfish exemption program to account for the additional exemption issued to vessels participating in the EFP. These modifications allow the participating vessels to continue fishing under the provisions of the sector redfish exemption program with 4.5-inch (11.43 cm) codend mesh, as they have since the original issuance of the EFP.

These modifications would not alter any other aspect of the EFP, including the remaining exemptions, remaining conditions and requirements, and study period. They do not change the impact of the EFP from what was previously issued.

The applicant may request further minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: July 28, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–16469 Filed 8–2–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2021–HQ–0005]

Submission for OMB Review; Comment Request

AGENCY: Department of the Air Force (USAF), Department of Defense (DoD).

ACTION: 5-Day notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice that DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to formalize the collection of information for The Isolated Personnel Report (ISOPREP): Personnel Recovery Mission Software (PRMS) and The DD 1833 ISOPREP Form. Information collected for the ISOPREP is used to positively identify, authenticate, support and recover isolated or missing DoD persons of interest. DoD requests emergency processing and OMB authorization to collect the information after publication of this notice for a period of six months.

DATES: Comments must be received by August 9, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 5 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 5-day Review—Open for Public Comments'' or by using the search function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

SUPPLEMENTARY INFORMATION: The Personnel Recovery Mission Software (PRMS) web application as part of the greater Personnel Recovery Command And Control (PRC2), USAF, system of record and the DD FORM 1833 sponsored by The Joint Personnel Recovery Agency (JPRA) both collect ISOPREP information from the following respondents: DoD Military, DoD Civilians, DoD Contractors authorized to accompany the force (CAAF), other US Government agency employees and Coalition military members supporting DoD operations overseas.

The ISOPREP collects Controlled Unclassified Information (CUI) in the form of full name and associates the name with sensitive Personal Identifiable Information (PII) including date of birth, Social Security number, pictures and fingerprints. The ISOPREP also collects confidential information as identified in the JPRA Personnel Recovery Security Classification Guide (PR SCG) in the form of personal authentication statements and codes known only to the individual who completes the ISOPREP. All personnel completing an initial ISOPREP are required to utilize the PRMS web application. In rare instances where personnel do not have access to PRMS a hardcopy DD FORM 1833 can be completed. When complete, ISOPREPS are stored in the PRC2 system on Secure internet Protocol Routing Network (SIPRNET), while a few hardcopy DD FORM 1833s are stored in other DoD classified environments.

In the unlikely event that personnel become isolated, the information on an individual's ISOPREP is used to positively identify, authenticate, support and recover that person. In the interest of protecting the force and returning personnel who support the DoD to their units, families and country, the information collected for the ISOPREP is a force requirement for those DoD military and civilians serving overseas.

Title; Associated Form; and OMB Number: Isolated Personnel Report (ISOPREP) PRMS web application and DD FORM1833; OMB Control Number 0701–ISOP.

Type of Request: New.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 300,000.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: July 29, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–16488 Filed 8–2–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–019]

City of River Falls; Notice of Application for Amendment of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for non-capacity amendment of license.

b. *Project No:* P–10489–019.

c. *Date Filed:* July 9, 2021.

d. *Applicant:* City of River Falls, Municipal Utilities.

e. *Name of Project:* River Falls Hydroelectric Project.

f. *Location:* The project is located on the Kinnickinnic River in the City of

River Falls, Pierce County, Wisconsin. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin Westhuis, Utility Director, City of River Falls Municipal Utilities, 222 Lewis Street, River Falls, WI 54022, phone (920) 462–0220.

i. *FERC Contact:* Diana Shannon, (202) 502–6136, *diana.shannon@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* August 27, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. 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, Maryland 20852. The first page of any filing should include the docket number P–10489–019. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The River Falls Hydroelectric Project consists of the Junction Falls and Powell Falls developments. The applicant seeks approval to decommission and remove the Powell Falls development from the project license, keeping the facilities in place. As background, a flood damaged the Powell Falls development right training wall, as well as other project-related generating equipment in June 2020. This event necessitated a drawdown of the impoundment (Lake Louise) to investigate the extent of damage. Rather than refill the impoundment and restore generation, the applicant now proposes to remove the development from the project license.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: July 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–16485 Filed 8–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–108–000.

Applicants: Cypress Creek Holdings, LLC, Catalyst Acquisition Co, Inc.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Cypress Creek Holdings, LLC.

Filed Date: 7/27/21.

Accession Number: 20210727–5174.

Comments Due: 5 p.m. ET 8/17/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–1790–004.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2021–07–28 Load, Exports & Wheeling Time Waiver Ext to be effective N/A.

Filed Date: 7/28/21.

Accession Number: 20210728–5129.

Comments Due: 5 p.m. ET 8/18/21.

Docket Numbers: ER21–2531–000.

Applicants: Southern Company Services, Inc.

Description: Request for Limited Waiver of Southern Companies.

Filed Date: 7/27/21.

Accession Number: 20210727–5167.

Comments Due: 5 p.m. ET 8/17/21.

Docket Numbers: ER21–2532–000.

Applicants: Bay Tree Solar, LLC.

Description: Baseline eTariff Filing: Bay Tree Solar, LLC—Application for Market-Based Rate Authority to be effective 9/13/2021.

Filed Date: 7/28/21.

Accession Number: 20210728–5040.

Comments Due: 5 p.m. ET 8/18/21.

Docket Numbers: ER21–2533–000.

Applicants: Bay Tree Lessee, LLC.

Description: Baseline eTariff Filing: Bay Tree Lessee, LLC—Application for Market-Based Rate Authority to be effective 9/13/2021.

Filed Date: 7/28/21.

Accession Number: 20210728–5042.

Comments Due: 5 p.m. ET 8/18/21.

Docket Numbers: ER21–2534–000.
Applicants: New York State Electric & Gas Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Joint 205 TPIA among NYISO, NYSEG, NextEra for Empire State Line SA2634, CEII to be effective 7/14/2021.
Filed Date: 7/28/21.
Accession Number: 20210728–5053.
Comments Due: 5 p.m. ET 8/18/21.
Docket Numbers: ER21–2535–000.
Applicants: Dichotomy Power Maine, LLC.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 12/31/9998.
Filed Date: 7/28/21.
Accession Number: 20210728–5093.
Comments Due: 5 p.m. ET 8/18/21.
Docket Numbers: ER21–2536–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2021–07–28 Gen Rplcmnt Coord Agrmt to be effective 9/27/2021.
Filed Date: 7/28/21.
Accession Number: 20210728–5107.
Comments Due: 5 p.m. ET 8/18/21.
Docket Numbers: ER21–2537–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2021–07–28 First Amendment to ABAOA—BANC to be effective 9/27/2021.
Filed Date: 7/28/21.
Accession Number: 20210728–5124.
Comments Due: 5 p.m. ET 8/18/21.
Docket Numbers: ER21–2538–000.
Applicants: Minonk Stewardship Wind LLC.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 9/14/2021.
Filed Date: 7/28/21.
Accession Number: 20210728–5125.
Comments Due: 5 p.m. ET 8/18/21.
Docket Numbers: ER21–2539–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Service Agreement No. 895 to be effective 7/28/2021.
Filed Date: 7/28/21.
Accession Number: 20210728–5139.
Comments Due: 5 p.m. ET 8/18/21.

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: July 28, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–16525 Filed 8–2–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–35–000]

Commission Information Collection Activity (FERC–587); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–587, Land *Description:* Public Land States/Non-Public Land States, which will be submitted to the Office of Management and Budget (OMB) for review of this request for extension.

DATES: Comments on the collections of information are due October 4, 2021.

ADDRESSES: You may submit copies of your comments (identified by Docket No. IC21–35–000) on FERC–587 by one of the following methods:

Electronic filing through *http://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: Land *Description:* Public Land States/Non-Public Land States.

OMB Control No.: 1902–0145.

Type of Request: Three-year extension of FERC–587.

Abstract: Section 24 of the Federal Power Act (FPA)[1] requires the Commission to conduct this collection of information, which pertains to applications proposing hydropower projects, or changes to existing hydropower projects, within ''lands of the United States.'' FERC Form 587 consolidates the required information, including a description of the applicable U.S. lands and identification of hydropower project boundary maps associated with the applicable U.S. lands. An applicant must send FERC Form 587 both to the Commission and to the Bureau of Land Management (BLM)[2] state office where the project is located. The information consolidated in FERC Form 587 facilitates the reservation of U.S. lands as hydropower sites and the withdrawal of such lands from other uses.

Type of Respondents: Applicants proposing hydropower projects, or changes to existing hydropower projects, within lands of the United States.

Estimate of Annual Burden: The Commission estimates 70 responses, 70 hours, and $6,090 in costs annually for respondents. These burdens are itemized in the following table:

[1] 16 U.S.C. 818.

[2] The Bureau of Land Management is within the U.S. Department of the Interior.

Number of respondents	Annual number of responses per respondent	Total number of responses (Column A × Column B)	Average hour burden & cost per response [3]	Total annual burden hours & total annual cost (Column C × Column D)	Cost per respondent ($) (Column E ÷ Column A)
A.	B.	C.	D.	E.	F.
70	1	70	1 hour; $87.00	70 hours; $6,090	$87.00

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–16483 Filed 8–2–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–8674–01–OCSPP]

Pesticide Registration Review; Pesticide Dockets Opened for Review and Comment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the EPA's preliminary work plans for the following chemicals: allyl isothiocyanate (AITC) and Oriental mustard seed. With this document, the EPA is opening the public comment period for registration review for these chemicals.

DATES: Comments must be received on or before October 4, 2021.

ADDRESSES: Submit your comments to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV. using the *Federal eRulemaking Portal* at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA/DC and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on the EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is the EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will

[3] Commission staff estimates that the average industry hourly cost for this information collection is approximated by the current FERC 2021 average hourly costs for wages and benefits, *i.e.,* $87.00/hour.

assist the public in understanding the types of information and issues that the agency may consider during the course of registration reviews. As part of the registration review process, the Agency has completed preliminary workplans for all pesticides listed in the Table in Unit IV. Through this program, the EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

The EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. Registration Reviews

A. What action is the Agency taking?

A pesticide's registration review begins when the agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. Pursuant to 40 CFR 155.50, this notice announces the availability of the EPA's preliminary work plans for the pesticides shown in the following table and opens a 60-day public comment period on the work plans.

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Allyl isothiocyanate (AITC) and Oriental mustard seed, Case Number 7481.	EPA–HQ–OPP–2021–0251	Natalie Bray, *Bray.Natalie@epa.gov,* 703–347–8467.

B. Docket Content

The registration review docket contains information that the agency may consider in the course of the registration review. The agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the agency is asking that interested persons identify any additional information they believe the agency should consider during the registration reviews of these pesticides. The agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

The registration review final rule at 40 CFR 155.50(b) provides for a minimum 60-day public comment period on all preliminary registration review work plans. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary changes to a pesticide's workplan. All comments should be submitted using the methods in **ADDRESSES**, and must be received by the EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Table in Unit IV. Comments received after the close of the comment period will be marked ''late.'' The EPA is not required to consider these late comments.

The agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The final registration review work plan will explain the effect that any comments had on the final work plan and provide the agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 26, 2021.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2021–16506 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2014–0350; FRL 8818–01–OW]

Proposed Information Collection Request; Comment Request; National Fish Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''National Fish Program'' (EPA ICR No. 1959.07, OMB Control No. 2040–0226) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. 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: Comments must be submitted on or before October 4, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2014–0350, online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

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.

FOR FURTHER INFORMATION CONTACT: CDR Samantha Fontenelle, Office of Science and Technology, Standards and Health Protection Division, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–2083; fax number: (202) 566–0409; email address: *fontenelle.samantha@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA would be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR is for voluntary information collections under the national fish advisory program. These information collections would help EPA advance equitable and effective fish advisory programs that protect recreational and subsistence fishers and other underserved populations from consumption of contaminated fish. This information is collected under the authority of section 104 of the Clean Water Act, which provides for the collection of information to be used to protect human health and the environment. The information to be collected on a voluntary basis would include the following: Fish advisory information and fish tissue data collected to assist in making advisory decisions; state or tribal fish program information for the National Fish Advisory Program Evaluation; and, technical program information from time to time. EPA would analyze the information to determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes have equitable and effective fish advisory programs. In addition, EPA would also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate.

This ICR renews the EPA ICR Number 1959.07, OMB Control No. 2040–0226, expiration April 30, 2022. This ICR renewal describes the estimated burden for states and authorized tribes associated with the information collections related to National Fish Program.

Form Numbers: None.

Respondents/affected entities: Potential respondents to this ICR include: The 50 states, the District of Columbia, the five territories, authorized tribes with EPA-approved WQS, and Great Lakes Fish and Wildlife Commission.

Respondent's obligation to respond: Voluntary (Clean Water Act, Section 104).

Estimated number of respondents: Up to 103 (total).

Frequency of response: Once in 3-year period for some collections; periodically for one collection.

Total estimated burden: 1,181 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $64,766.66 per year. There are no capital or operation & maintenance costs.

Changes in Estimates: There is increase of 603 hours in the total estimated annual respondent burden compared with the ICR currently approved by OMB. This increase is due to EPA's efforts to advance equity and environmental justice in fish advisory programs. EPA is adding information collections to help EPA determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes have equitable and effective fish advisory programs that protect recreational and subsistence fishers and other underserved populations from consumption of contaminated fish. In addition, EPA would also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate. The increase pertains to the addition of three voluntary information collections as part of implementing the EPA national advisory program: Information on state and tribal fish advisories; state and tribal program information for the National Fish Advisory Program Evaluation; and, technical program information from time to time.

Deborah Nagle,

Director, Office of Science and Technology, Office of Water.

[FR Doc. 2021–16512 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0750; FRL–8676–01–OCSPP]

Pesticide Registration Review; Proposed Interim Decisions for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decisions and opens a 60-day public comment period on the proposed interim decisions for the following pesticides: Amitraz, cinnamaldehyde, difenoconazole, farnesol and nerolidol, fenbuconazole, isoxaflutole, mesotrione, metaldehyde, MGK–264, *Nosema locustae,* oxadiazon, oxyfluorfen, piperonyl butoxide (PBO), pyrethrins, tembotrione, topramezone, *Ulocladium oudemansii* (U3 Strain).

DATES: Comments must be received on or before October 4, 2021.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV., using the *Federal eRulemaking Portal* at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

Due to the public health concerns related to COVID–19, the EPA/DC and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on the EPA/DC and docket access, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim registration review decisions for the pesticides shown in Table 1 and opens a 60-day public comment period on the proposed interim registration review decisions.

TABLE 1—PROPOSED INTERIM DECISIONS

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Amitraz Case Number 0234	EPA–HQ–OPP–2009–1015	Veronica Dutch, *Dutch.Veronica@epa.gov*, 703–308–8585.
Cinnamaldehyde Case Number 6032	EPA–HQ–OPP–2010–0918	Bibiana Oe, *Oe.Bibiana@epa.gov*, 703–347–8162.
Difenoconazole Case Number 7014	EPA–HQ–OPP–2015–0401	Jordan Page, *Page.jordan@epa.gov*, 703–347–0467.
Farnesol and Nerolidol Case Number 6061	EPA–HQ–OPP–2021–0275	Joseph Mabon, *Mabon.Joseph@epa.gov*, 703–347–0177.
Fenbuconazole Case Number 7012	EPA–HQ–OPP–2015–0716	Ben Tweed, *Tweed.Benjamin@epa.gov*, 703–347–8751.
Isoxaflutole Case Number 7242	EPA–HQ–OPP–2010–0979	Rachel Eberius, *Eberius.Rachel@epa.gov*, 703–347–0492.
Mesotrione Case Number 7256	EPA–HQ–OPP–2013–0779	Samantha Thomas, *Thomas.Samantha@epa.gov*, 703–347–0514.

TABLE 1—PROPOSED INTERIM DECISIONS—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Metaldehyde Case Number 0576	EPA–HQ–OPP–2015–0649	Rachel Eberius, *Eberius.Rachel@epa.gov*, 703–347–0492.
MGK–264 (N-octyl bicycloheptene dicarboximide). Case Number 2430	EPA–HQ–OPP–2012–0415	Andrew Muench, *Muench.Andrew@epa.gov*, 703–347–8263.
Nosema locustae Case Number 4104	EPA–HQ–OPP–2021–0065	Andrew Queen, *Queen.Andrew@epa.gov*, 703–308–8135.
Oxadiazon Case Number 2485	EPA–HQ–OPP–2014–0782	Theodore Varns, *Varns.Theodore@epa.gov*, 703–347–8589.
Oxyfluorfen Case Number 2490	EPA–HQ–OPP–2014–0778	R. David Jones, *Jones.Rdavid@epa.gov*, 703–305–6725.
Piperonyl butoxide (PBO) Case Number 2525	EPA–HQ–OPP–2010–0498	James Douglass, *Douglass.James@epa.gov*, 703–347–8630.
Pyrethrins Case Number 2580	EPA–HQ–OPP–2011–0885	Jordan Page, *Page.Jordan@epa.gov*, 703–347–0467.
Tembotrione Case Number 7273	EPA–HQ–OPP–2016–0063	Carolyn Smith, *Smith.Carolyn@epa.gov*, 703–347–8325.
Topramezone Case Number 7268	EPA–HQ–OPP–2015–0127	Kelsi Grogan, *Grogan.Kelsi@epa.gov*, 703–347–8970.
Ulocladium oudemansii (U3 Strain) Case Number 6520	EPA–HQ–OPP–2021–0313	Monica Thapa, *Thapa.Monica@epa.gov*, 703–347–8688.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in the tables in Unit IV, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. These proposed interim registration review decisions are supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in Table 1 in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decision. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Tables in Unit IV. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 26, 2021.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2021–16516 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0316; FRL–8734–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Agricultural Worker Protection Standard Training, Notification and Recordkeeping

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled: ''Agricultural Worker Protection Standard Training, Notification, and Recordkeeping'' and identified by EPA ICR No. 2491.05 and OMB Control No. 2070–0190, represents the renewal of an existing ICR that is scheduled to expire on April 30, 2022. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before October 4, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0316, online through the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Please note that due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC and

docket access, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Carolyn Siu, Mission Support Division (7101), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 34–0159; email address: *siu.carolyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Agricultural Worker Protection Standard Training, Notification, and Recordkeeping.

ICR number: EPA ICR No. 2491.05.

OMB control number: OMB Control No. 2070–0190.

ICR status: This ICR is currently scheduled to expire on April 30, 2022. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This Information Collection Request (ICR) estimates the recordkeeping and third-party response burden of paperwork activities that covers the information collection requirements contained in the Worker Protection Standard (WPS) regulations at 40 CFR part 170. The requirements in 40 CFR part 170 were established to protect agricultural workers and pesticide handlers from the hazards of pesticides used in the production of agricultural plants on agricultural establishments. The paperwork activities include respondent activities associated with training and notification of pesticide-related information for workers who enter pesticide-treated areas after pesticide application to perform crop-related tasks, as well as for handlers who mix, load, and apply pesticides. Agricultural employers and commercial pesticide handling establishments (CPHEs) are responsible for providing required training, notifications and information to their employees to ensure worker and handler safety.

In 2015 (80 FR 67495, November 2, 2015 (FRL–9931–81), EPA revised the requirements associated with training for workers and handlers, improved posting of pesticide-treated areas, required additional information for workers before they enter a pesticide-treated area while a restricted entry interval (REI) is in effect, access to more general and application-specific information about pesticides used on the establishment, and revised recordkeeping of training to improve enforceability and compliance.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 minutes per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Respondents affected by the collection activities under this ICR are agricultural employers on agricultural establishments, including employers in farms as well as in nursery, forestry, and greenhouse establishments.

Respondent's obligation to respond: Mandatory under 40 CFR 170.

Estimated total number of potential respondents: Approximately 985,000 agricultural establishments and approximately 1,995,000 agricultural workers/handlers.

Frequency of response: Annually or on occasion, depending on the activity.

Estimated total average number of responses for each respondent: Varies.

Estimated total annual burden hours: 10,449,889 hours.

Estimated total annual costs: $ 486,621,459. This includes an estimated burden cost of $ 0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no change in the number of hours requested and those identified in the ICR currently approved by OMB. There is an estimated increase of 3,220 respondents, which is the result of a correction to the Agency's previously reported bottom-line annual estimates. Although the full burden analysis for the currently approved ICR properly accounted for burden imposed on these respondents, these respondents were inadvertently omitted from the total number of respondents reported to OMB. This change is an adjustment.

In addition, this ICR reflects a change in format. OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not believe that this change in format resulted in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: July 27, 2021.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–16493 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–8675–01–OCSPP]

Pesticide Registration Review; Draft Human Health and/or Ecological Risk Assessments for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and/or ecological risk assessments for the registration review of copper 8 quinolinolate, DCNA, nabam, triadimefon and triadimenol.

DATES: Comments must be received on or before October 4, 2021.

ADDRESSES: Submit your comments, to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV., using the *Federal eRulemaking Portal* at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at *http://www.epa.gov/dockets*.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed comprehensive draft human health and/or ecological risk assessments for all pesticides listed in the Table in Unit IV. After reviewing comments received during the public comment period, EPA may issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for the pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's human health and/or ecological risk assessments for the pesticides shown in Table 1 and opens a 60-day public comment period on the risk assessments.

TABLE 1—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and number	Docket ID No.	Chemical review manager and contact information
Copper 8 quinolinolate, Case: 5118	EPA–HQ–OPP–2010–0454.	Peter Bergquist, *Bergquist.Peter@epa.gov*, 703–347–8563.
DCNA, Case: 0113	EPA–HQ–OPP–2016–0141.	Kent Fothergill, *Fothergill.Kent@epa.gov*, 703–347–8299.
Nabam, Case: 0641	EPA–HQ–OPP–2012–0339.	Erin Dandridge, *Dandridge.Erin@epa.gov*, 703–347–0185.
Triadimefon & Triadimenol, Case: 2700 & 7008	EPA–HQ–OPP–2016–0114.	Matthew B. Khan, *Khan.Matthew@epa.gov*, 703–347–8613.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and/or ecological risk assessments for the pesticides listed in the Table in Unit IV. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to a draft human health and/or ecological risk assessment. EPA may then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments.

Information submission requirements. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 26, 2021.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2021–16517 Filed 8–2–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, OMB 3060–1270; FR ID 40994]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before September 2, 2021.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed

collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–XXXX.

Title: 47 CFR Section 90.372, Dedicated Short-Range Communications (DSRC) Notification Requirement.

Form No.: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Number of Respondents and Responses: 125 respondents; 125 responses.

Estimated Time Per Response: 2 hours.

Frequency of Response: Recordkeeping requirement; On occasion and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 309 and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 309 and 316.

Total Annual Burden: 250 hours.

Total Annual Cost: $62,500.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as a new collection after this 60-day comment period to obtain the full three-year clearance.

On November 20, 2020, the Federal Communications Commission released a First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, Use of the 5.850–5.925 GHz Band, ET Docket No. 19–138. Among other things, the Commission repurposed 45 megahertz of the 5.850–5.925 GHz band (the 5.9 GHz band), specifically the spectrum from 5.850–5.895 GHz, to allow for the expansion of unlicensed operations into the sub-band. At the same time, the Commission recognized that the 5.9 GHz band plays an important role in supporting intelligent transportation system (ITS) operations, and therefore continued to dedicate 30 megahertz of the 5.9 GHz band, specifically the sub-band from 5.895–5.925 GHz, for use by the ITS radio service. In addition, to promote the most efficient and effective use of the remaining ITS spectrum, the Commission will require ITS operations in the 5.895–5.925 GHz sub-band to transition from the current technology, Dedicated Short-Range Communications (DSRC), to the emerging Cellular Vehicle-to-Everything (C–V2X)-based technology by the end of a transition period to be decided following action on the Further Notice.

47 CFR New Section 90.372 requires DSRC licensees to notify the Commission that they have ceased operations in the 5.850–5.895 GHz sub-band. Below is section 90.372 as adopted in the First Report and Order.

§ 90.372 DSRCS Notification Requirement

(a) DSRCS licensees authorized pursuant to 90.370(b) must notify the Commission that as of the transition deadline of July 5, 2022, they have ceased operating in the 5.850–5.895 GHz portion of the band. This notification must be filed via ULS within 15 days of the expiration of the transition deadline.

(b) Continued operation in the 5.850–5.895 GHz portion of the band after the transition deadline, will result in automatic termination of that licensee's authorization without specific Commission action.

OMB Control Number: 3060–1270.

Title: Protecting National Security Through FCC Programs.

Form Number: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 3,500 respondents; 10,250 responses.

Estimated Time per Response: 0.5–12 hours.

Frequency of Response: Annual, semi-annual and recordkeeping requirements.

Obligation to Respond: Mandatory and required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1603–1604.

Total Annual Burden: 27,400 hours.

Total Annual Cost: 1,125,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the FCC. However, respondents may request confidential treatment of their information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as a revision during this comment period to obtain the full three year clearance from OMB. Under this information collection, the Communications Act of 1934, as amended, requires the ''preservation and advancement of universal service.'' 47 U.S.C. 254(b). The information collection requirements reported under this collection are the result of the Federal Communications Commission's (the Commission) actions to promote the Act's universal service goals.

On November 22, 2019, the Commission adopted the *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Report and Order, Order, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 11423 (2019) (*Report and Order*). The *Report and Order* prohibits future use of Universal Service Fund (USF) monies to purchase, maintain, improve, modify, obtain, or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain.

On March 12, 2020, the President signed into law the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), Public Law 116–124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609), which among other measures, directs the FCC to establish the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). This program is intended to provide funding to providers of advanced communications service for the removal, replacement and disposal of certain communications equipment and services that poses an unacceptable national security risk (*i.e.,* covered equipment and services) from their networks. The Commission has designated two entities—Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), along with their affiliates, subsidiaries, and parents—as covered companies posing such a national security threat. *See Protecting Against National Security Threats to the*

Communications Supply Chain Through FCC Programs—Huawei Designation, PS Docket No. 19–351, Memorandum Opinion and Order, 35 FCC Rcd 14435 (2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—ZTE Designation,* PS Docket No. 19–352, Memorandum Opinion and Order, DA 20–1399 (PSHSB rel. Nov. 24, 2020).

On December 10, 2020, the Commission adopted the *Second Report and Order* implementing the Secure Networks Act, which contained certain new information collection requirements. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Second Report and Order, 35 FCC Rcd 14284 (2020) (*Second Report and Order*). These requirements will allow the Commission to receive, review and make eligibility determinations and funding decisions on applications to participate in the Reimbursement Program that are filed by certain providers of advanced communications service. These new information collection requirements will also assist the Commission in processing funding disbursement requests and in monitoring and furthering compliance with applicable program requirements to protect against waste, fraud, and abuse.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, appropriating $1.9 billion to ''carry out'' the Reimbursement Program and amending the Reimbursement Program eligibility requirements to expand eligibility to include providers of advanced communications service with 10 million or fewer subscribers. *See* Public Law 116–260, Division N-Additional Coronavirus Response and Relief, Title IX-Broadband internet Access Service, §§ 901, 906, 134 Stat. 1182 (2020). The Commission has interpreted the term ''provider of advanced communications service'' to mean ''facilities-based providers, whether fixed or mobile, with a broadband connection to end users with at least 200 kbps in one direction.'' *Second Report and Order,* 35 FCC Rcd at 14332, para. 111. Participation in the Reimbursement Program is voluntary but compliance with the new information collection requirements is required to obtain Reimbursement Program support.

The Secure Networks Act requires all providers of advanced communications service to annually report, with exception, on whether they have purchased, rented, leased or otherwise obtained covered communications equipment or service on or after certain dates. 47 U.S.C. 1603(d)(2)(B). The *Second Report and Order* adopted a new information collection requirement to implement this statutory mandate. *See* Secure Networks Act § 5. If the provider certifies it does not have any covered equipment and services, then the provider is not required to subsequently file an annual report, unless it later obtains covered equipment and services. *Second Report and Order* at para. 215.

This submission is for new information collection requirements contained in the *Second Report and Order* adopted by the Commission on December 10, 2020. The new requirements are necessary for the creation of a $1.9 billion reimbursement program, as directed by Congress in the Secure Networks Act, as amended. This submission also covers a related information collection requirement necessitated by the Secure Networks Act and/or the *Second Report and Order* and proposes to eliminate a previously approved information collection requirement that is no longer necessary.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–16503 Filed 8–2–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 40816]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified System of Records.

SUMMARY: The Federal Communications Commission (FCC or Commission or Agency) has modified an existing system of records, FCC/PSHSB–1, FCC Emergency and Continuity Alerts and Contacts System (ECACS), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. The FCC's Public Safety and Homeland Security Bureau (PSHSB) uses the information in ECACS to prepare for and coordinate crisis response activities wherever they occur in the United States and its territories. The FCC is modifying FCC/PSHSB–1 to add information it will use to alert the designated emergency contacts of Commission staff of an emergency involving the FCC or a staff member.

DATES: This action will become effective on August 3, 2021. Written comments on the system's routine uses are due by September 2, 2021. The routine uses in this action will become effective on September 2, 2021 unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Margaret Drake, at *privacy@fcc.gov,* or at Federal Communications Commission (FCC), 45 L Street, NE, Washington, DC 20554 at (202) 418–1707.

FOR FURTHER INFORMATION CONTACT: Margaret Drake, (202) 418–1707, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: The FCC's Public Safety and Homeland Security Bureau (PSHSB) uses the information in ECACS to prepare for and coordinate crisis response activities wherever they occur in the United States and its territories. This notice serves to update and modify FCC/PSHSB–1 to add the personally identifiable information (PII) of Commission staff in the form of contact information and emergency contacts. The substantive changes and modifications to the previously published version of the FCC/PSHSB–1 system of records include:

1. Updating the Security Classification to follow OMB and FCC guidance.

2. Updating the Purposes for clarity and to include contacting the emergency contacts designated by FCC staff in case of an emergency involving a staff member.

3. Updating the Categories of Individuals to include emergency contacts designated by FCC staff.

4. Updating the Categories of Records to remove information that is no longer collected by this system and to include contact information for FCC employees' emergency contacts.

5. Updating the System Location to show the FCC's new headquarters address.

6. Adding two new Routine Uses: (1) FCC Program Management, to allow designated FCC staff to access the information in connection with the management and operation of a safe workplace, and (9) Non-Federal Personnel, to allow contractors performing or working on a contract for the Federal Government access to information in this system.

7. Revising three Routine Uses: (3) Law Enforcement and Investigation to include components of agencies; (5) Government-Wide Program Management and Oversight to remove references to federal agencies for which the Privacy Act already includes exceptions, see 5 U.S.C. 552a(6) and (10); and (10) Test Partners to include other federal agencies that will collaborate with the FCC on Wireless Emergency Alerts.

8. Removing one Routine Use: Contracted Third Parties and replacing it with a new Routine Use (9) Non-Federal Personnel.

The system of records is also updated to reflect various administrative changes related to the system address; administrative, technical, and physical safeguards; and updated notification, records access, and procedures to contest records.

SYSTEM NAME AND NUMBER:

FCC/PSHSB–1, FCC Emergency and Continuity Alerts and Contacts System (ECACS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC), 45 L Street, NE, Washington, DC, 20554.

SYSTEM MANAGER(S):

Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984, as amended February 28, 2003 and June 26, 2006; Presidential Decision Directive 67, Enduring Constitutional Government and Continuity of Government Operations, October 21, 1998; Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* November 25, 2002; National Security Presidential Directive 51/Homeland Security Presidential Directive 20, National Continuity Policy, May 9, 2007; National Communications System Directive 3–10, Minimum Requirements for Continuity Communications Capabilities, July 25, 2007; National Continuity Policy Implementation Plan, Homeland Security Council, August 2007; Federal Continuity Directive 1, Federal Executive Branch National Continuity Program and Requirements, February 2008; Federal Continuity Directive 2, Federal Executive Branch Mission Essential Function and Primary Mission Essential Function Identification and Submission Process, February 2008.

PURPOSE(S) OF THE SYSTEM:

The FCC uses the records in this system to:

1. Respond to and coordinate activities such as emergencies and crisis management actions, responses, and related functions, including contacting FCC staff and their designated emergency contacts and using an automated telephone, text, and email system;

2. Manage and maintain the contact and response system for FCC staff for coordinating Continuity of Operations Plan (COOP) actions and related functions;

3. Conduct voluntary surveys evaluating the effectiveness of Wireless Emergency Alerts (WEA) and other related emergency notification systems, functions, and activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include:

1. FCC staff and their designated emergency contacts.

2. Federal Government contacts; State, Tribal, Territorial, Local Government and private sector contacts; and individuals representing institutions, organizations, and other groups engaged in crisis management and emergency preparedness functions, activities, and actions.

3. FCC staff who are members of the Bureau and Office (B/O) Emergency Response Group (ERG), Devolution Emergency Response Group (DERG), and FCC and B/O lines of succession.

4. Individuals who volunteer to participate in PSHSB surveys for WEA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system include personal and business contact information, such as phone number, fax number, email address, physical address. Records also include survey information, such as the individual respondents' identification numbers, email addresses, street addresses (street, city, state, and zip code) at the location that the individual responds to the survey, and other information that PSHSB will collect, such as the type of device, operating system, and wireless service provider.

RECORD SOURCE CATEGORIES:

FCC employees and contractors, Federal Government, State, Tribal, Territorial, Local Government, and private sector contacts representing institutions and organizations with crisis management and emergency preparedness functions, as well as survey respondents' inputs transmitted through their wireless devices, or through other means of communication.

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 section 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 the FCC, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows.

1. FCC Program Management—A record from this system may be accessed and used by the FCC's Office of Managing Director or supervisory staff in their duties associated with the management and operation of a safe workplace. This information may be used to notify staff and their designated emergency contacts of an emergency situation involving the FCC or a staff member.

2. Adjudication and Litigation—To disclose information to the Department of Justice (DOJ), or to a court or adjudicative body before which the FCC is authorized to appear, when: (a) The FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC have agreed to represent the employee; or (d) the United States is a party to litigation or have an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.

3. Law Enforcement and Investigation—To disclose pertinent information to the appropriate Federal, State, and/or local agency, or component of an agency, such as the FCC's Enforcement Bureau, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

4. Congressional Inquiries—To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.

5. Government-Wide Program Management and Oversight—To disclose information to the Department of Justice (DOJ) to obtain that department's advice regarding

disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

6. Labor Relations—To officials of labor organizations recognized under 5 U.S.C. 71 upon receipt of a formal request and in accord with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

7. Breach Notification—To appropriate agencies, entities, and persons when (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Commission efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8. Assistance to Federal Agencies and Entities—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

9. Non-Federal Personnel—To disclose information to non-federal personnel, including contractors, who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

10. Test Partners—To PSHSB's test partner entities, including other federal agencies, who help plan, conduct, and analyze the results of tests used to evaluate the effectiveness of WEA.

REPORTING TO A CONSUMER REPORTING AGENCY:

In addition to the routine uses listed above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in ECACS consists of electronic data, files, and records, which are housed in the FCC's computer network databases, and paper documents, files, and records, which are stored in file cabinets in the PSHSB office suite.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in the Emergency Contacts and the COOP Contacts databases is retrieved by searching any field in the respective database(s).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The FCC maintains and disposes of these records in accordance with the requirements of the General Records Schedules (GRS) issued by the National Archives and Records Administration (NARA) as follows:

GRS 5.3, Disposition Authorities:

Item 010: DAA–GRS–2016–0004–0001: Continuity planning and related emergency planning files; and

Item 020: DAA–GRS–2016–0004–0002: Employee emergency contact information.

GRS 4.1, Disposition Authority: Item 030: DAA–GRS–2013–0002–0008: Vital or essential records program records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. The electronic records, data, and files are stored within FCC accreditation boundaries and maintained in a database housed in the FCC computer network databases. Access to the electronic files is restricted to authorized Commission employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other FCC employees and contractors may be granted access on a need-to-know basis. The FCC's electronic files and records protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the National Institute of Standards and Technology (NIST), the Office of Management and Budget (OMB), and the Federal Information Security Modernization Act of 2014 (FISMA).

2. There are a limited number of paper documents, files, and records, which are stored in file cabinets in the FCC Operations Center and continuity sites. These cabinets are locked when not in use and/or at the end of the business day. All access points for these locations are monitored.

3. PSHSB's Test Partners and contractors will not have direct access to the FCC's computer network or information systems; however, PSHSB will provide the Test Partners data necessary to evaluate the effectiveness of WEA. The Test Partners will be required to implement privacy safeguards against the disclosure of electronic data and paper document files provided by the FCC.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about them should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing *Privacy@fcc.gov*. Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The FCC last gave full notice of this system of records, FCC/PSHSB–1, by publication in the **Federal Register** on April 24, 2020 (85 FR 23024).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–16511 Filed 8–2–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1086 and OMB 3060–1216; FR ID 41065]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before October 4, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1086.

Title: Section 74.787, Digital Licensing; Section 74.790, Permissible Service of Digital TV Translator and LPTV Stations; Section 74.794, Digital Emissions, Section 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation; Section 74.798, LPTV Digital Transition Consumer Education Information; Protection of Analog LPTV.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; not for profit institutions; State, local or Tribal government.

Number of Respondents/Responses: 8,445 respondents; 27,386 responses.

Estimated Hours per Response: 0.50–4 hours.

Frequency of Response: Recordkeeping requirement; One-time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 56,386 hours.

Total Annual Cost: $69,033,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 301 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: The information collection requirements approved under this collection are as follows:

a. 47 CFR 74.787(a)(2)(iii) provides that mutually exclusive LPTV and TV translator applicants for companion digital stations will be afforded an opportunity to submit in writing to the Commission, settlements and engineering solutions to resolve their situation.

b. 47 CFR 74.787(a)(3) provides that mutually exclusive applicants applying for construction permits for new digital stations and for major changes to existing stations in the LPTV service will similarly be allowed to submit in writing to the Commission, settlements and engineering solutions to rectify the problem.

c. 47 CFR 74.787(a)(4) provides that mutually exclusive displacement relief applicants filing applications for digital LPTV and TV translator stations may be resolved by submitting settlements and engineering solutions in writing to the Commission.

d. 47 CFR 74.787(a)(5)(v) states that a license for a digital-to-digital replacement television translator will be issued only to a full-power television broadcast station licensee that demonstrates in its application a loss in the station's pre-auction digital service area as a result of the broadcast television spectrum incentive auction, including the repacking process, conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96). ''Pre-auction digital service area'' is defined as the geographic area within the full power station's noise-limited contour (as set forth in Public Notice, DA 15–1296, released November 12, 2015). The service area of the digital-to-digital replacement translator shall be limited to only the demonstrated loss area within the full power station's pre-auction digital service area, provided that an applicant for a digital-to-digital replacement television translator may propose a de minimis expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace a loss in its pre-auction digital service area.

e. 47 CFR 74.790(f) permits digital TV translator stations to originate emergency warnings over the air deemed necessary to protect and safeguard life and property, and to originate local public service announcements (PSAs) or messages seeking or acknowledging financial support necessary for its continued operation. These announcements or messages shall not exceed 30 seconds each, and be broadcast no more than once per hour.

f. 47 CFR 74.790(e) requires that a digital TV translator station shall not retransmit the programs and signal of any TV broadcast or DTV broadcast station(s) without prior written consent of such station(s). A digital TV translator operator electing to multiplex signals must negotiate arrangements and obtain written consent of involved DTV station licensee(s).

g. 47 CFR 74.790(g) requires a digital LPTV station who transmits the programming of a TV broadcast or DTV broadcast station received prior written consent of the station whose signal is being transmitted.

h. 47 CFR 74.794 mandates that digital LPTV and TV translator stations operating on TV channels 22–24, 32–36 and 38 with a digital transmitter not specifically FCC-certificated for the channel purchase and utilize a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS band. The licensees must retain with their station license a description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual.

i. 47 CFR 74.796(b)(5) requires digital LPTV or TV translator station licensees that modify their existing transmitter by use of a manufacturer-provided modification kit would need to purchase the kit and must notify the Commission upon completion of the transmitter modifications. In addition, a digital LPTV or TV translator station licensees that modify their existing transmitter and do not use a manufacturer-provided modification kit, but instead perform custom modification (those not related to installation of manufacturer-supplied

and FCC-certified equipment) must notify the Commission upon completion of the transmitter modifications and shall certify compliance with all applicable transmission system requirements.

j. 47 CFR 74.796(b)(6) provides that operators who modify their existing transmitter by use of a manufacturer-provided modification kit must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the nature of the modifications, installation and test instructions, and other material provided by the manufacturer, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission. In addition, digital LPTV and TV translator operators who custom modify their transmitter must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the modifications performed and performance tests, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission.

k. Protection of Analog LPTV. In situations where protection of an existing analog LPTV or translator station without a frequency offset prevents acceptance of a proposed new or modified LPTV, TV translator, or Class A station, the Commission requires that the existing non-offset station install at its expense offset equipment and notify the Commission that it has done so, or, alternatively, negotiate an interference agreement with the new station and notify the Commission of that agreement.

l. 47 CFR 74.798 requires all stations in the low power television services to provide notice of their upcoming digital transition to their viewers.

OMB Control No.: 3060–1216.

Title: Media Bureau Incentive Auction Implementation, Sections 73.3700(b)(4)(i)–(ii), (c), (d), (h)(5)–(6) and (g)(4).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 1,950 respondents and 174,219 responses.

Estimated Time per Response: .004–15 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 24,932 hours.

Annual Cost Burden: $1,214,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: The information gathered in this collection will be used to require broadcasters transitioning to a new station following the Incentive Auction, or going off the air as a result of a winning bid in the Incentive Auction, to notify their viewers of the date the station will terminate operations on its pre-Auction channel by running public service announcements, and allow these broadcasters to inform MVPDs of their relinquishment or change in channel. It requires channel sharing agreements enter into by television broadcast licensees to contain certain provisions regarding access to facilities, financial obligations and to define each party's rights and responsibilities; the Commission will review each channel sharing agreement to ensure it comports with general rules and policies regarding license agreements. The provisions contained in this collection also require wireless licensees to notify low-power television and TV translator stations commence wireless operations and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area. Finally, it requires license relinquishment stations and channel sharing stations to comply with notification and cancellation procedures as they terminate operations on their pre-Auction channel.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–16504 Filed 8–2–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0669, OMB 3060–0788; FR ID 40916]

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 PRA comments should be submitted on or before October 4, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0669.

Title: Section 76.946, Advertising of Rates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 30 minutes (0.5 hours).

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden to Respondents: 4,125 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 76.946 states that cable operators that advertise rates for basic service and cable programming service tiers shall be required to advertise rates that include all costs and fees. Cable systems that cover multiple franchise areas having differing franchise fees or other franchise costs, different channel line-ups, or different rate structures may advertise a complete range of fees without specific identification of the rate for each individual area. In such circumstances, the operator may advertise a ''fee plus'' rate that indicates the core rate plus the range of possible additions, depending on the particular location of the subscriber.

OMB Control Number: 3060–0788.

Title: DTV Showings/Interference Agreements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 300 respondents; 300 responses.

Estimated Hours per Response: 5 hours.

Frequency of Response: On occasion reporting requirement, Third Party Disclosure requirement.

Total Annual Burden: 1,500 hours.

Total Annual Costs: $3,900,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 73.623 requires applicants to submit a technical showing to establish that their proposed facilities will not result in additional interference to TV broadcast operations. The Commission permits broadcasters to agree to proposed TV facilities that do not conform to the allotted parameters, even though they might be affected by potential new interference. The Commission will consider granting applications on the basis of interference agreements if it finds that such grants will serve the public interest. These agreements must be signed by all parties to the agreement. In addition, the Commission needs the following information to enable such public interest determinations: A list of parties predicted to receive additional interference from the proposed facility; a showing as to why a grant based on the agreements would serve the public interest; and technical studies depicting the additional interference. The technical showings and interference agreements will be used by FCC staff to determine if the public interest would be served by the grant of the application and to ensure that the proposed facilities will not result in additional interference.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–16502 Filed 8–2–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of charter re-establishment.

SUMMARY: The Federal Communications Commission (Commission) hereby announces that the charter of the Technological Advisory Council (hereinafter Committee) has been re-established pursuant to the Federal Advisory Committee Act (FACA) and in accordance with the Committee Management Secretariat, General Services Administration.

FOR FURTHER INFORMATION CONTACT: Michael Ha, Chief, Policy and Rules Division, 202–418–2099; *michael.ha@fcc.gov.*

SUPPLEMENTARY INFORMATION: Following consultation with the General Services Administration the Commission intends to re-establish the charter on or before September 7, 2021 and provide the Committee with authorization to operate for two years from the effective date.

Technology is continually evolving, offering new opportunities to circumvent the challenges of radio spectrum scarcity and interference and to foster the growth of ubiquitous, high-speed, low-latency connectivity. This kind of technical innovation is fundamental to the economic prosperity and national security of the United States. In the age of ever-faster technical development, maintaining the United States' leadership in high priority emerging technologies will require careful planning and execution. The Commission must stay atop of new developments to ensure that the nation can continue to turn scientific research into usable communications technologies swiftly and efficiently.

The Committee provides technical advice and makes recommendations to the Commission on issues and questions presented to it by the Commission. The Committee will focus on key issues affecting the development and deployment of emerging communications technologies to spur opportunities for innovation, competition, adoption, greater efficiencies, job creation, and other national priorities. The Committee will address questions referred to it through the Designated Federal Officer by the FCC Chair, the Chief of the FCC Office of Engineering and Technology, or the FCC Chief Technology Officer. The questions referred to the Committee will be directed to technological and technical issues in the field of communications.

The Committee is organized under, and operates in accordance with, the provisions of the FACA. The Committee will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the Committee will be open to the public unless otherwise noticed. Records will be maintained of each meeting and made available for public inspection. All activities of the Committee will be conducted in an open, transparent, and accessible manner. The Committee shall terminate on September 7, 2023, or earlier upon the completion of its work

as determined by the FCC Chair, unless its charter is renewed prior to the termination date.

The Committee will meet approximately three to five times per year, with the possibility of more frequent meetings by informal subcommittees. The meetings of the Committee will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date. In addition, as needed, working groups or subcommittees (ad hoc or steering) will be established to facilitate the Committee's work between meetings of the full Committee. All meetings, including those of working groups and subcommittees, will be fully accessible to individuals with disabilities.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–16510 Filed 8–2–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 86 FR 38713.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, July 27, 2021 at 10:00 a.m. and its continuation at the conclusion of the open meeting on July 29, 2021.

CHANGES IN THE MEETING:

This meeting will also discuss:

Matters relating to internal personnel decisions, or internal rules and practices.

Investigatory records compiled for law enforcement purposes and production would disclose investigative techniques.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

CONTACT FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2021–16557 Filed 7–30–21; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than August 18, 2021.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Jon Rex Jones; the Jon Rex Jones Dynasty Trust, Jon Rex Jones, Jr. and Brenda Wilkinson Jones, as co-trustees; the Jon Rex Jones Jr. Dynasty Trust, Brenda Wilkinson Jones, as trustee; the Jon Rex Jones Jr. Trust V, Jon Rex Jones, Jr., as trustee; the Debora L. Jones Trust V and the JAJ Trust V, Julie Ann Jarvis, as trustee of both trusts; and the Stephen Martin Jones Trust V, Stephen Martin Jones, as trustee, all of Austin, Texas;* as a group acting in concert to retain voting shares of Albany Bancshares, Inc. and indirectly retain voting shares of First National Bank of Albany/Breckenridge, both of Albany, Texas. Additionally, Jon Rex Jones, Jr., in his capacity as proxy with power to exercise the largest block of voting shares, to acquire additional voting shares of Albany Bancshares and indirectly acquire voting shares of National Bank of Albany/Breckenridge.

Board of Governors of the Federal Reserve System, July 28, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–16460 Filed 8–2–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than August 18, 2021.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Independent Bank Corp., and thereby indirectly acquire voting shares of Rockland Trust Company, both of Rockland, Massachusetts.

Board of Governors of the Federal Reserve System, July 29, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–16514 Filed 8–2–21; 8:45 am]

BILLING CODE 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 September 2, 2021.

A. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Goldwater Bancorp, Inc.,* to become a bank holding company by acquiring Goldwater Bank, National Association, both of Phoenix, Arizona.

Board of Governors of the Federal Reserve System, July 28, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–16461 Filed 8–2–21; 8:45 am]

BILLING CODE 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 September 2, 2021.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org*:

1. *First Volunteer Corporation, Chattanooga, Tennessee*; to merge with FBD Holding Company, Inc., and thereby indirectly acquire First Bank, both of Dalton, Georgia.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Tri Valley Bancshares, Inc., Talmage, Nebraska;* to acquire First State Bank, Scottsbluff, Nebraska.

Board of Governors of the Federal Reserve System, July 29, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–16513 Filed 8–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; ORR–2 Quarterly Report on Expenditures and Obligations (OMB #0970–0407)

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR) is requesting a three-year extension of the ORR–2 Quarterly Report on Expenditures and Obligations (OMB #0970–0407, expiration 8/31/2021). There are no changes requested to the form.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The Office of Refugee Resettlement (ORR) reimburses, to the extent of available appropriations, certain non-federal costs for the provision of cash and medical assistance to refugees, along with allowable expenses for the administration the refugee resettlement program at the State level. States and Replacement Designees currently submit the ORR–2 Quarterly Report on Expenditures and Obligations, which provides aggregate expenditure and obligation data. This data collection collects expenditures and obligations data separately for each of the four CMA program components: Refugee cash assistance, refugee medical assistance, cash and medical assistance administration, and services for unaccompanied minors. This breakdown of financial status data allows ORR to track program expenditures in greater detail to anticipate any funding issues and to meet the requirements of ORR regulations at CFR 400.211 to collect

these data for use in estimating future costs of the refugee resettlement program. ORR must implement the methodology at CFR 400.211 each year after receipt of its annual appropriation to ensure that appropriated funds will be adequate for reimbursement to States of the costs for assistance provided to entering refugees. The estimating methodology prescribed in the regulations requires the use of actual past costs by program component. If the methodology indicates that appropriated funds are inadequate, ORR must take steps to reduce federal expenses, such as by limiting the number of months of eligibility for Refugee Cash Assistance and Refugee Medical Assistance. This single-page financial report allows ORR to collect the necessary data to ensure that funds are adequate for the projected need and thereby meet the requirements of both the Refugee Act and ORR regulations.

Respondents: State governments and Replacement Designees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
ORR Financial Status Report Cash and Medical Assistance Program, Quarterly Report on Expenditures and Obligations	63	4	1.50	378

Estimated Total Annual Burden Hours: 378.

Authority: 8 U.S.C. 1522 of the Immigration and Nationality Act (the Act) (Title IV, Sec. 412 of the Act) for each state agency requesting federal funding for refugee resettlement under 8 U.S.C. 524 (Title IV, Sec. 414 of the Act).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–16470 Filed 8–2–21; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–2024]

Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Draft Guidance for Industry; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice of availability entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Draft Guidance for Industry; Availability'' that appeared in the **Federal Register** of June 4, 2021. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period for the notice of availability published on June 4, 2021 (86 FR 30053). Submit either electronic or written comments by September 2, 2021 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–2020–D–2024 for ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Draft Guidance for Industry.'' 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 this 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 guidance document.

FOR FURTHER INFORMATION CONTACT: Abha Kundi, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *drugtrackandtrace@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 4, 2021 (86 FR 30053), FDA published a notice with a 60-day comment period to announce and request comments on a draft guidance for industry entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act.'' FDA is extending the comment period until September 2, 2021. The Agency believes that an additional 30 days will allow adequate time for interested persons to submit comments without compromising the timely publication of the final version of the guidance.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: July 28, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–16522 Filed 8–2–21; 8:45 am]

BILLING CODE 4164–01–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 the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Clinical, Treatment and Health Services Research Study Section.

Date: October 13, 2021.

Time: 8:00 a.m. to 5:00 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 20892 (Virtual Meeting).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2109, Bethesda, MD 20817, (301) 443–8599, *espinozala@mail.nih.gov.*

(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: July 29, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–16508 Filed 8–2–21; 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 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: Center for Scientific Review Special Emphasis Panel; AREA/REAP: Cardiovascular and Respiratory Sciences.

Date: August 30, 2021.

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: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@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: July 29, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–16509 Filed 8–2–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Improved Live-Attenuated Vaccine for Respiratory Syncytial Virus

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Commercialization Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Summary Information section of this notice to Codagenix, Inc. (Codagenix), having a place of business in Farmingdale, New York, U.S.A.

DATES: Only written comments and/or applications for a license which are received by the National Institute of Allergy and Infectious Diseases' Technology Transfer and Intellectual Property Office on or before August 18, 2021 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Commercialization Patent License should be directed to: Peter Soukas, Technology Transfer and Patent Specialist, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, National Institutes of Health; Email: *ps193c@nih.gov;* Telephone: (301) 496–2644; Facsimile: (240) 627–3117.

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Patent Application Number 63/023,949, filed May 13, 2020 and PCT Patent Application Number PCT/US2021/32305, filed May 13, 2021, entitled ''Improved Live-Attenuated Vaccine for Respiratory Syncytial Virus (RSV) Bearing Codon-Pair Deoptimized NS1, NS2, N, P, M and SH Genes and Additional Point Mutations in the P Gene,'' [HHS Reference No. E–104–2020–0]; and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in this invention have been assigned to the Government of the United States of America.

The prospective exclusive licensed territory may be worldwide, and the field of use may be limited to: ''Live-attenuated codon-deoptimized human respiratory syncytial virus vaccine.''

RSV is the most important viral agent of severe respiratory disease in infants and young children worldwide and also causes substantial morbidity and mortality in older adults. RSV is estimated to cause more than 33 million lower respiratory tract illnesses, three million hospitalizations, and nearly 200,000 childhood deaths worldwide annually, with many deaths occurring in developing countries. However, despite the prevalence of RSV and the dangers associated with infection, no RSV vaccine has been successfully developed to date. Accordingly, there is a public health need for RSV vaccines. This vaccine candidate comprises live RSV that was attenuated by subjecting the protein-coding sequences of the viral NS1, NS2, N, P, M, and SH genes to codon-pair deoptimization, which resulted in many nucleotide substitutions that were silent at the amino acid level but conferred attenuation. In addition, specific amino acid substitutions were identified and introduced into the P protein that improved attenuation and genetic stability. Genetic stability was confirmed in vitro, and attenuation was confirmed in experimental animals.

This live-attenuated RSV vaccine is designed to be administered intranasally by drops or spray to infants and young children. Based on experience with other live-attenuated RSV vaccine candidates, the present candidates are anticipated to be well tolerated in humans and are available for clinical evaluation. The National Institute of Allergy and Infectious Diseases has extensive experience and capability in evaluating live-attenuated RSV vaccine candidates in pediatric clinical studies.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Institute of Allergy and Infectious Diseases receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent commercialization license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available. License applications submitted in response to this Notice will be presumed to contain business confidential information, and any release of information in these license applications will be made only as required and upon a request under the *Freedom of Information Act,* 5 U.S.C. 552.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2021–16462 Filed 8–2–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2021–0016; OMB No. 1660–0086]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Flood Insurance Program—Mortgage Portfolio Protection Program (MPPP); Ask the Advocate Web Form

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a previously approved information collection for which approval has expired. FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning an amendment to a currently-approved collection of information related to the National Flood Insurance Program (NFIP), Mortgage Portfolio Protection Program (MPPP), which is an option that companies participating in the National Flood Insurance Program can use to bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements. This amended notice seeks comments concerning the collection of information related to the Office of the Flood Insurance Advocate (OFIA).

DATES: Comments must be submitted on or before September 2, 2021.

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: For information related to the NFIP Mortgage Portfolio Protection Program (MPPP), contact Kelly Bronowicz, Industry Management Branch Chief, FIMA, FEMA, at 202–557–9488, or *Kelly.Bronowicz@fema.dhs.gov.*

For information related to the Ask the Advocate web form, contact Joe Cecil, Advocate Representative Team Lead, Office of the Flood Insurance Advocate, FIMA, FEMA, at 202–701–3465, or *Joseph.Cecil@fema.dhs.gov.*

Requests for additional information or copies of the information collection should be made to the Forms & Information Collections Manager, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Pertaining to the MPPP, federal lenders and Federally-regulated or sponsored lending institutions may not make, increase, extend, or renew any loan secured by improved real property located in a special flood hazard area (SFHA) unless the building and any personal property securing the loan is covered by flood insurance for the life of the loan. See Flood Disaster Protection Act of 1973 (FDPA) § 102 (Pub. L. 93–234; 42 U.S.C. 4012a). The FEMA Administrator carries out the NFIP to enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real or personal property arising from flood in the United States. See National Flood Insurance Act of 1968 (NFIA) (Pub. L. 90–448, title XIII; 42 U.S.C. 4001 *et seq.*).

In general, individual mortgagees subject to the requirements of the FDPA obtain and maintain flood insurance for their individual properties. When individual mortgagees to not obtain required flood insurance, the NFIP's Mortgage Portfolio Protection program (MPPP) allows covered lenders to ensure compliance with the requirements of FDPA by selling making available special coverage for the lender's entire mortgage portfolio. See 44 CFR 62.23(l). In order sell MPPP policies, private insurance companies participating in the NFIP's Write Your Own (WYO) Program must apply for and annually renew their election to voluntarily participate in the MPPP.

This proposed information collection previously published in the **Federal Register** on May 25, 2021, at 86 FR 28122 with a 60-day public comment period. No comments were received. This information collection expires on December 31, 2021. FEMA is requesting a revision of this currently approved collection. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Pertaining to the Ask the Advocate Web Form, Section 24 of the Homeowner Flood Insurance Affordability Act of 2014 (42 U.S.C. 4033), Public Law 113–89, 128 Stat. 1030, requires FEMA to designate a Flood Insurance Advocate that would advocate for the fair treatment of NFIP policyholders and property owners by: (1) Providing education and guidance on all aspects of the NFIP, (2) identifying trends affecting the public, and (3) making recommendations for NFIP program improvements to FEMA leadership. Pursuant to this authority, FEMA established the Office of the Flood Insurance Advocate (OFIA) on December 22, 2014.

Members of the public regularly contact OFIA seeking assistance on the NFIP. OFIA seeks to facilitate the timely and effective management of these inquiries by creating a web form on OFIA's web page at *https://www.fema.gov/flood-insurance/advocate.* The web form will allow users to provide information that includes all the data necessary for OFIA to perform its Congressionally-mandated duties and responsibilities.

Consumers who submit an inquiry to OFIA will be required to fill-out ten (10) informational fields on the Ask the Advocate web form. These fields include: (1) First name, (2) Last name, (3) Email address, (4) Confirm email address, (5) How did you hear of Advocate's office (pull-down list), (6) Contact role (list field), (7) State (pull-down list), (8) ZIP code, (9) Subject (of inquiry) and (10) Questions/Comment (regarding inquiry). An eleventh (11th) field is a security CAPTCHA field intended to distinguish human from machine input as a way of thwarting spam and automated extraction of data from websites.

When a consumer submits this information, the data will be collected and stored on OFIA's Department of Homeland Security/FEMA-approved Customer Relationship Management cloud-based environment hosted by Salesforce.

Once OFIA receives this information, the inquiry will be assigned a system-generated ''Case number'', and then the case is then assigned to an OFIA Advocate Representative (FEMA employee). Using the data collected from the Ask the Advocate web form, the Advocate Representative will research the customer's inquiry and offer education and guidance to help the customer navigate the NFIP process.

Collection of Information

Title: National Flood Insurance Program—Mortgage Portfolio Protection Program (MPPP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0086.

FEMA Forms: Ask the Advocate Web Form (form number pending OMB approval).

Abstract: Regarding the MPPP, FEMA needs the information to ensure that private insurance companies that join the NFIP's WYO Program meet all state and federal requirements for insurance companies. Requirements include a good business record and satisfactory rating in their field. There is no other way to obtain this information because it is specific to each company that applies to join the NFIP.

Regarding the Ask the Advocate Web Form, the Homeowner Flood Insurance Affordability Act of 2014 requires FEMA to designate a Flood Insurance Advocate that would advocate for the fair treatment of NFIP policyholders and property owners. Pursuant to this authority, FEMA established OFIA on December 22, 2014.

Members of the public regularly contact OFIA seeking assistance on the NFIP. OFIA seeks to facilitate the timely and effective management of these inquiries through a web form on OFIA's web page. The web form will allow users to provide information that includes all the data necessary for OFIA to fulfill its duties and responsibilities.

Affected Public: Individuals, households, businesses, or other for-profit.

Estimated Number of Respondents: 1,041.

Estimated Number of Responses: 1,041.

Estimated Total Annual Burden Hours: 227.

Estimated Total Annual Respondent Cost: $11,856.

Estimated Respondents' Operation and Maintenance Costs: $0.00.

Estimated Respondents' Capital and Start-Up Costs: $0.00.

Estimated Total Annual Cost to the Federal Government: $71,930.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent L. Brown,

Senior Manager, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2021–16507 Filed 8–2–21; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB–2021–0008]

RIN 1653–ZA20

Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Haiti

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) has suspended certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. The Secretary is taking action to provide relief to Haitian citizens who are lawful F–1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status. DHS will deem an F–1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This F–1 notice is effective August 3, 2021 through February 3, 2023.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536–5600; email: *sevp@ice.dhs.gov,* telephone: (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/*.

SUPPLEMENTARY INFORMATION:

What action is the Department of Homeland Security (DHS) taking under this notice?

The Secretary of Homeland Security is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) who are present in the United States in lawful F–1 nonimmigrant student status as of August 3, 2021, and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. DHS initially suspended certain regulatory requirements for F–1 nonimmigrant students experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. *See* 75 FR 56120 (Sep. 15, 2010). The original notice was effective from September 15, 2010, until July 22, 2011. A subsequent notice provided for an 18-month extension from July 22, 2011, through January 22, 2013. *See* 76 FR 28997 (May 19, 2011). A third notice provided another 18-month extension from January 22, 2013, through July 22, 2014. *See* 77 FR 59942 (Oct. 1, 2012). A fourth notice provided for another 18-month extension from July 22, 2014, through January 22, 2016. *See* 79 FR 11805 (Mar. 3, 2014). A fifth notice provided for another 18-month extension from January 22, 2016, through July 22, 2017. *See* 80 FR 51579 (Aug. 25, 2015). Effective with this publication, suspension of the employment limitations is available through February 3, 2023, for those who are in lawful F–1 nonimmigrant status as of August 3, 2021. DHS will deem an F–1 nonimmigrant student granted employment authorization through this notice to be engaged in a ''full course of study,'' for the duration of the employment authorization if the student satisfies the minimum course load set forth in this notice.[1] *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F–1 nonimmigrant students who meet all of the following conditions:

(1) Are citizens of Haiti, regardless of country of birth;

(2) Were lawfully present in the United States in an F–1 nonimmigrant status on August 3, 2021, under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F–1 nonimmigrant students;

(4) Are maintaining F–1 status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

This notice applies to F–1 nonimmigrant students in an approved private school in grades kindergarten through grade 12, public school in grades 9 through 12, and undergraduate and graduate education. An F–1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

Why is DHS taking this action?

As a result of the current crisis in Haiti, the Secretary designated Haiti for Temporary Protected Status (TPS) for 18 months, effective August 3, 2021 through February 3, 2023, based on extraordinary and temporary conditions

[1] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engaged in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 3, 2023, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance on COVID–19, *available at https://www.ice.gov/coronavirus* [last visited May 2021].

in Haiti that prevent nationals from returning safely, specifically, a political crisis accompanied by human rights abuses; serious security concerns; and the Coronavirus 2019 (COVID–19) pandemic's exacerbation of a dire economic situation and lack of access to food, water, and healthcare. Previously, DHS took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Haiti and who experienced severe economic hardship because of the January 12, 2010 earthquake. *See* 75 FR 56120 (Sept. 15, 2010). That action along with subsequent extension notices,[2] enabled these F–1 nonimmigrant students to obtain employment authorization, work an increased number of hours while the academic institution was in session, and reduce their course loads, while continuing to maintain F–1 nonimmigrant student status. DHS has reviewed conditions in Haiti and determined that making employment authorization available for eligible nonimmigrant students is again warranted due to the current crisis in Haiti.

Haiti faces significant human rights issues stemming from presidential use of executive decrees for a range of actions to include creating an intelligence agency accountable only to the president,[3] in addition to serious security concerns resulting from gang violence that is allegedly supported and protected by the state.[4] The Human Rights Service of the United Nations Integrated Office in Haiti and the Office of the High Commissioner for Human Rights reported a 333% increase in the number of human rights violations and abuses by law enforcement officials and non-state actors, respectively, against the rights to life and security of person during the protests that took place between July 6, 2018 and December 10, 2019.[5] On March 24, 2021, the U.N. Security Council expressed concern with ''reported violations and abuses of international human rights, including some involving the alleged use of deadly force against protesters and reported arbitrary arrest and detentions,'' and called on the Inspector General of the Haitian National Police to conduct a thorough investigation of the reported incidences.[6] Security conditions in Port-au-Prince have deteriorated due to an increase in kidnappings and political protests.[7] Furthermore, gang-related violent crimes have expanded outside of Port-au-Prince with increased crime occurring on major routes of travel.[8] On April 21, 2021, the Department of State issued a Level 4 Travel Advisory for Haiti because of widespread kidnappings and violent crimes.[9] On June 10, 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported an upsurge in deadly clashes between gangs in Port-au-Prince and an overall increase to some 10,000 residents who have been displaced due to this and similar incidents in the past 12 months.[10] Further, beginning on June 24, 2021, multiple news organizations reported that one of Haiti's most powerful gang leaders, a former police officer, warned of launching a ''revolution'' against the country's business and political elites, signaling a likely further escalation of violence in Haiti.[11] On July 7, 2021, a group of assailants attacked President Moise's residence and killed him. No one has claimed responsibility for the assassination.

Haiti has few resources to tackle its political instability and frequent natural disasters.[12] According to the World Bank, it is ''the poorest country in the Latin America and Caribbean region and among the poorest countries in the world'' ranking 170 out of 189 countries on the 2020 Human Development Index.[13] Haitians rely heavily on remittances sent from abroad,[14] with remittances constituting approximately 23% of Haiti's Gross Domestic Product (GDP) in 2019.[15] Haiti experienced a negative growth rate of approximately 1.7% in 2019 followed by an estimated 3.8% contraction in 2020, as COVID–19 exacerbated its already weak economy and political instability.[16] The World Bank reports an inflation rate at nearly 23% for 2020.[17] Public frustration with Haiti's economy has contributed to ongoing demonstrations.[18]

According to USAID the country still suffers from the lingering impact of the 2010 earthquake and Hurricane Matthew in 2016 that exacerbated its existing inadequate healthcare infrastructure as well as access to electricity, clean water, and sanitation

[2] *See* Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 76 FR 28997 (May 19, 2011); Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 77 FR 59942 (Oct. 1, 2012); Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 79 FR 11805 (Mar. 3, 2014); Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 80 FR 51579 (Aug. 25, 2015).

[3] Andre Paultre and Sarah Marsh ''The battle for democracy goes on in Haiti as Moïse gains power,'' The Christian Science Monitor, March 30, 2021, *available at https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power* [last visited May 2021].

[4] 2020 Country Reports on Human Rights Practices: Haiti, United States Department of State, March 30, 2021, *available at https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/* [last visited May 2021].

[5] Unrest in Haiti: Their Impact on Human Rights and the State's Obligation to Protect all Citizens, United Nations Office of the High Commissioner for Human Rights/United National Integrated Office in Haiti, Jan. 18, 2021, *available at https://binuh.unmissions.org/en/unrest-haiti-their-impact-human-rights-and-state%E2%80%99s-obligation-protect-all-citizens-0* [last visited May 2021].

[6] Security Council Presidential Statement Expresses Deep Concern over Multiple Crises in Haiti, Stressing Government's Primary Duty to Tackle Instability, United Nations Security Council Press Release, March 24, 2021, *available at https://www.un.org/press/en/2021/sc14474.doc.htm* [last visited May 2021].

[7] Haiti—Complex Emergency Fact Sheet #1, Fiscal Year 2021, U.S. Agency for International Development (USAID), Jan. 19, 2021, *available at https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-1-fiscal-year-fy-2021* [last visited May 2021].

[8] Haiti 2020 Crime and Safety Report, Overseas Security Advisory Council (OSAC), U.S. Department of State, *available at https://www.osac.gov/Content/Report/09752c66-7cac-47f7-a92e-188fe7af0f75* [last visited May 2021].

[9] Haiti Travel Advisory, U.S. Department of State, Apr. 21, 2021, *available at https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html* [last visited May 2021].

[10] Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *available at https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti.*

[11] *See e.g.,* ''Haiti Gang Leader Launches 'Revolution' as Violence Escalates'', U.S. News and World Report, June 24, 2021 and ''Haiti gang leader threatens 'revolution' '', The New York Carib News, June 26, 2021.

[12] Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at https://crsreports.congress.gov/product/pdf/R/R45034* [last visited May 2021].

[13] Haiti Overview, The World Bank, last updated Apr 26, 2021, *available at https://www.worldbank.org/en/country/haiti/overview* [last visited May 2021].

[14] Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at https://fas.org/sgp/crs/row/R45034.pdf* [last visited May 2021].

[15] Personal Remittances, Received—Haiti, The World Bank, *available at https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?end=2019&locations=HT&start=1971&view=chart* [last visited May 2021].

[16] Haiti Overview, The World Bank, last updated Apr 26, 2021, *available at https://www.worldbank.org/en/country/haiti/overview* [last visited May 2021].

[17] Inflation, Consumer Prices (Annual %)—Haiti, The World Bank, *available at https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?locations=HT* [last visited May 2021].

[18] Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at https://fas.org/sgp/crs/row/R45034.pdf* [last visited May 2021].

systems.[19] Approximately 40% of Haitians lack access to essential health and nutrition services, which have been exacerbated by the COVID–19 pandemic.[20] The United Nations World Food Programme reports that Haiti's weather, economic shocks, and insecurity are the main factors driving up food prices and that the country is vulnerable to inflation and price volatility, especially during crises such as the COVID–19 pandemic.[21] Between August 2020 and February 2021, approximately 42% of the population faced high acute food insecurity, and this is projected to rise to 46% of the population for March 2021 to June 2021.[22] Further, on June 10, 2021, OCHA reported that displaced residents as a result of deadly gang clashes are in need of urgent humanitarian assistance and protection to include sanitation shelter, access to clean water and food.[23]

As of May 23, 2021, 1,083 F–1 nonimmigrants students whose country of citizenship is Haiti were physically present in the United States and enrolled in SEVP-certified academic institutions. Given the extent of the current crisis in Haiti, affected F–1 nonimmigrant students whose primary means of financial support comes from Haiti may need to be exempt from the normal student employment requirements to continue studying in the United States. The current crisis has created financial barriers for F–1 nonimmigrant students which could interfere with their ability to support themselves and return to Haiti for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses. DHS is therefore making employment authorization available for F–1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth), who are in lawful F–1 nonimmigrant student status as of August 3, 2021, who are currently maintaining F–1 status, and who are experiencing severe economic hardship as a result of the current crisis in Haiti.

What is the minimum course load requirement set forth in this notice?

Undergraduate F–1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term.[24] A graduate-level F–1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v).

In addition, an F–1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless the course of study is in an English language study program.[25] *See* 8 CFR 214.2(f)(6)(i)(G). An F–1 nonimmigrant student attending an approved private school in grades kindergarten through grade 12 or public school in grades 9–12 must maintain ''class attendance for no less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,'' as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F–1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. A Haitian F–1 nonimmigrant student who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i)(A) and (B) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F–1 nonimmigrant student may benefit without having to apply for a new Form I–766, Employment Authorization Document (EAD). To benefit from this notice, the F–1 nonimmigrant students must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record so the student's Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, reflects:

> Approved for more than 20 hours per week of [DSO must insert ''on-campus'' or ''off-campus,'' depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently working off campus), or the end date of this notice, whichever date comes first].

Must the F–1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces their ''full course of study''?

No. DHS will deem an F–1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a ''full course of study'' for the duration of the student's employment authorization, provided that a qualifying undergraduate level F–1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F–1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term.[26] *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 nonimmigrant status.

[19] Haiti Health Fact Sheet, U.S. USAID, Jan. 2020, *available at https://www.usaid.gov/documents/1862/usaidhaiti-health-fact-sheet-january-2020* [last visited May 2021].

[20] *Id.*

[21] The Cost of A Plate of Food—2020: Haiti, United Nations World Food Programme, *available at https://cdn.wfp.org/2020/plate-of-food/* [last visited May 2021].

[22] Haiti: Acute Food Insecurity Situation August 2020–February 2021 and Projection for March–June 2021, Integrated Food Security Phase Classification, *available at http://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1152816/?iso3=HTI* [last visited May 2021].

[23] Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *available at https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti.*

[24] Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B).

[25] DHS considers students who engage in online coursework pursuant to ICE COVID–19 guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, *available at https://www.ice.gov/coronavirus* [last visited Mar. 2021]

[26] Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B).

Will an F–2 dependent (spouse or minor child) of an F–1 nonimmigrant student covered by this notice be eligible to apply for employment authorization?

No. An F–2 spouse or minor child of an F–1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 nonimmigrant status. *See* 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F–1 visa and makes an initial entry in the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to those F–1 nonimmigrant students who meet the following conditions:

(1) Are citizens of Haiti, regardless of country of birth;

(2) Are lawfully present in the United States in F–1 nonimmigrant status on August 3, 2021 under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in an academic institution that is SEVP certified for enrollment of F–1 nonimmigrant students;

(4) Are maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

An F–1 nonimmigrant student who does not meet all of these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current crisis in Haiti).

Does this notice apply to a continuing F–1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register, August 3, 2021, and who needs to obtain a new F–1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such a nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I–20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F–1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F–1 status?

Yes. However, this notice does not by itself reduce the required course load for F–1 nonimmigrant students enrolled in private kindergarten through grade 12, or public high school grades 9 through 12. Such Haitian students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 nonimmigrant students regardless of educational level. Eligible F–1 nonimmigrant students covered by this notice who are enrolled in an elementary school, middle school, or high school do benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

On-Campus Employment Authorization

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F–1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F–1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the SEVIS student record, which will appear on the student's Form I–20:

> Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].

To obtain on-campus employment authorization, the F–1 nonimmigrant student must demonstrate to their DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Haiti. A nonimmigrant student authorized by their DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting fulltime employment on-campus when school is not in session or during school vacations apply. *See* 8 CFR 214.2(f)(9)(i).

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain the student's F–1 nonimmigrant status?

Yes. DHS will deem an F–1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a ''full course of study'' [27] for the purpose of maintaining their F–1 nonimmigrant student status for the duration of the on-campus employment if the student satisfies the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if the reduction would not meet the school's minimum course load requirement for continued enrollment.[28]

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F–1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F–1 nonimmigrant status for one full academic year in order to be eligible for off-campus employment;

(b) The requirement that an F–1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F–1 nonimmigrant student's employment authorization to no more than 20 hours

[27] *See* 8 CFR 214.2(f)(6).

[28] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

per week of off-campus employment while school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F–1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F–1 nonimmigrant status?

Yes. DHS will deem an F–1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a ''full course of study'' for purpose of maintaining F–1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F–1 status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.[29]

How may an eligible F–1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F–1 nonimmigrant student must file a Form I–765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship resulting from the current crisis in Haiti. Filing instructions are located at: *http://www.uscis.gov/i-765*.

Fee considerations. Submission of a Form I–765 currently requires payment of a $410 fee. An applicant who is unable to pay the fee may submit a completed Form I–912, Request for Fee Waiver, along with the Form I–765 Application for Employment Authorization. *See www.uscis.gov/feewaiver*. The submission must include an explanation of why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to the DSO:

(1) This employment is necessary to avoid severe economic hardship; and

(2) The hardship is a direct result from the current crisis in Haiti.

If the DSO agrees that the F–1 nonimmigrant student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I–20:

> Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].

The F–1 nonimmigrant student must then file the properly endorsed Form I–20 and Form I–765, according to the instructions for the Form I–765. The F–1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that a F–1 nonimmigrant student be approved for Special Student Relief, the DSO certifies the following:

(a) The F–1 nonimmigrant student is in good academic standing and is carrying a ''full course of study'' [30] at the time of the request for employment authorization;

(b) The F–1 nonimmigrant student is a citizen of Haiti (regardless of country of birth) and is experiencing severe economic hardship as a direct result of the current crisis in Haiti, as documented on the Form I–20;

(c) The F–1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of 8 CFR 214.2(f)(5)(v) and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Haiti.

Application Filing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F–1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I–765;

(2) The required fee or properly documented fee waiver request, Form I–912; and

(3) A signed and dated copy of the student's Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope that is clearly marked on the front of the envelope, bottom right-hand side, with the phrase ''SPECIAL STUDENT RELIEF.'' Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I–765, USCIS will send the student an EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status Considerations

Can an F–1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F–1 nonimmigrant student who has not yet applied for TPS or other relief that reduces the student's course load per term and permits an increase number of work hours per week, such as Special Student Relief,[31] under this notice has two options.

Under the first option, the student may file the TPS application according to the instructions in the August 3, 2021 **Federal Register** Notice designating Haiti for TPS. All TPS applicants must file a Form I–821, Application for Temporary Protected Status. Although not required to do so, if an F–1 nonimmigrant student wants to obtain an EAD based on their TPS application that is valid through February 3, 2023, the student must file Form I–765 and pay the Form I–765 fee (request a fee waiver). After receiving the TPS-related EAD, an F–1 nonimmigrant student may request that the student's DSO make the required entry in SEVIS, issue an updated Form I–20, as described in this notice and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains

[29] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[30] *See* 8 CFR 214.2(f)(6).

[31] DHS Study in the States, Special Student Relief *available at https://studyinthestates.dhs.gov/students/special-student-relief* [last accessed March 2021].

the minimum course load described in this notice, does not otherwise violate the student's nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains the student's TPS, then the student maintains F–1 status and TPS concurrently.[32]

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing the Form I–765 with the location specified in the filing instructions. At the same time, the F–1 nonimmigrant student may file a separate TPS application but must submit the TPS application according to the instructions provided in the August 3, 2021 **Federal Register** Notice designating Haiti for TPS. F–1 nonimmigrant students who have already applied for employment authorization under Special Student Relief, are not required to submit the Form I–765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS related EAD in light of certain extensions that may be available to EADs with an A–12 or C–19 category code. The nonimmigrant student should check the appropriate box when filling out Form I–821 to indicate whether EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F–1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F–1 nonimmigrant student must maintain normal course load requirements for a ''full course of study'' [33] unless or until the nonimmigrant student is granted employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (*e.g.,* clock hours for language students). Once approved for Special Student Relief employment authorization, the F–1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), 214.2(f)(6), 214.2(f)(9)(i) and (ii).

How does an F–1 nonimmigrant student who has received a TPS-related employment authorization document then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. However, the F–1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Haiti. The DSO will then verify and update the student's SEVIS record to enable the F–1 nonimmigrant student with TPS to reduce their course load without any further action or application. No other EAD needs to be issued for the F–1 nonimmigrant student to have employment authorization.

Can a student who has been granted TPS apply for reinstatement to F–1 nonimmigrant student status after their F–1 nonimmigrant student status has lapsed?

Yes. Current regulations permit certain students who fall out of F–1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. The student must satisfy the criteria set forth in the F–1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until February 3, 2023,[34] to eligible F–1 nonimmigrant students. DHS will continue to monitor the situation in Haiti. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the **Federal Register**.

Paperwork Reduction Act (PRA)

An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653–0038.

This notice also allows an eligible F–1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

To apply for employment authorization, certain F–1 nonimmigrant students must complete and submit a currently approved Form I–765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I–765, consistent with the PRA (OMB Control No. 1615–0040). Although there will be a slight increase in the number of Form I–765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I–765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–16480 Filed 7–30–21; 8:45 am]

BILLING CODE 9111–28–P

[32] TPS-related EADs with certain validity dates are already extended for eligible beneficiaries of TPS Haiti through October 4, 2021 under the **Federal Register** Notice issued in compliance with preliminary injunction orders prohibiting the termination of Haiti's TPS designation. *See* 85 FR 79208 (Dec. 9, 2020) (specifying EADs and other documentation that is continued pursuant to the court orders).

[33] *See* 8 CFR 214.2(f)(6).

[34] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 3, 2023, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID–19, *available at https://www.ice.gov/coronavirus* [last visited May 2021].

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2693–21; DHS Docket No. USCIS–2014–0001]

RIN 1615–ZB70

Designation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of Temporary Protected Status (TPS) designation.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is designating Haiti for Temporary Protected Status (TPS) for 18 months, effective August 3, 2021, through February 3, 2023. This designation allows eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who have continuously resided in the United States since July 29, 2021, and who have been continuously physically present in the United States since August 3, 2021 to apply for TPS. TPS beneficiaries whose TPS has been continued pursuant to court orders, as described in 85 FR 79208 (Dec. 9, 2020) should newly apply for TPS following the instructions in this Notice.

DATES: *Designation of Haiti for TPS:* The 18-month designation of Haiti for TPS is effective on August 3, 2021 and will remain in effect for 18 months, through February 3, 2023. The registration period for eligible individuals to submit TPS applications begins August 3, 2021, and will remain in effect through February 3, 2023.

FOR FURTHER INFORMATION CONTACT: You may contact Andria Strano, Acting Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.

ADDRESSES: For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at *uscis.gov/tps.* You can find specific information about Haiti's TPS designation by selecting ''Haiti'' from the menu on the left side of the TPS web page.

If you have additional questions about TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *uscis.gov,* or visit the USCIS Contact Center at *uscis.gov/contactcenter.*

Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action (Approval Notice)
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice Civil, Rights Division, Immigrant and Employee Rights Section
IJ—Immigration Judge
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Purpose of This Action (TPS)

Through this Notice, DHS sets forth procedures necessary for beneficiaries whose TPS has been continued pursuant to court orders, as described in 85 FR 79208 (Dec. 9, 2020), to newly apply for TPS.[1] This Notice also sets forth procedures for other eligible nationals of Haiti (or individuals having no nationality who last habitually resided in Haiti) to submit an initial registration application under the designation of Haiti for TPS and apply for an EAD. Under the designation, individuals may submit an initial Application for Temporary Protected Status (Form I–821), and they may also submit an Application for Employment Authorization (Form I–765) during the registration period that runs from August 3, 2021 through February 3, 2023. Under section 244(b)(1)(C) of the Immigration and Nationality Act (INA), 8 U.S.C. 1254a(b)(1)(C), the Secretary is authorized to designate a foreign state (or any part thereof) for TPS upon finding that extraordinary and temporary conditions in the foreign state prevent its nationals from returning safely, unless permitting the foreign state's nationals to remain temporarily in the United States is contrary to the national interest of the United States.

In addition to demonstrating continuous residence in the United States since July 29, 2021, and meeting other eligibility criteria, applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since August 3, 2021, the effective date of this designation of Haiti, for USCIS to grant them TPS. USCIS estimates that approximately 155,000 individuals are eligible to apply for TPS under the designation of Haiti.[2]

[1] Since its first litigation compliance **Federal Register** notice, DHS has repeatedly emphasized and reserved its statutory authority to conduct re-registration of beneficiaries, including those under the Haiti TPS designation, whose TPS is presently continued under the preliminary injunctions issued in *Ramos, et al.* v. *Nielsen, et. al.,* No. 18–cv–01554 (N.D. Cal. Oct. 3, 2018) (''*Ramos*''), *on appeal* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981); *Saget, et. al.,* v. *Trump, et. al.,* No. 18–cv–1599 (E.D.N.Y. Apr. 11, 2019) (''*Saget*'') *appeal filed,* No. 19–1685 (2d Cir.); and *Bhattarai* v. *Nielsen,* No. 19–cv–00731 (N.D. Cal. Mar. 12, 2019) (''*Bhattarai*''). *See* 85 FR at 79209–10; 84 FR 59403, 59406(Nov. 4, 2019); 84 FR 7103, 7105 (March 1, 2019); 84 FR 45764, 45765–66 (Oct. 31, 2018). See also *infra* for discussion of these lawsuits.

[2] In general, individuals must be given an initial registration period of no less than 180 days to register for TPS, but the Secretary has discretion to provide for a longer registration period. *See* 8 U.S.C. 1254a(c)(1)(A)(iv). Historically, the length of the initial registration period has varied. *Compare* 66 FR 14214 (March 9, 2001) (18 month initial registration period for applicants under TPS designation for El Salvador) *with* 80 FR 36346 (June 24, 2015) (180-day initial registration period for applicants under TPS designation for Nepal). In recent years this period has generally been limited to the statutory minimum of 180 days, although later extensions of the initial registration period have also been announced for some countries. *See, e.g.,* 81 FR 4051 (Jan. 25, 2016) (setting 180-day initial registration period during extension and redesignation of South Sudan for TPS); 78 FR 1866 (Jan. 9, 2013) (setting 180-day initial registration period during extension and redesignation of Sudan for TPS); 75 FR 39957 (July 13, 2010) (extension of previously announced initial 180-day registration period for Haiti TPS applicants to allow more time for individuals to apply). After evaluating whether to limit the initial registration period for TPS under this new designation of Haiti to the statutory

Continued

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the INA, or to eligible individuals without nationality who last habitually resided in the designated foreign state.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a foreign state's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

Is Haiti's previous designation for TPS still in effect?

On January 21, 2010, former Secretary of Homeland Security Janet Napolitano designated Haiti for TPS under INA section 244(b)(1)(C) based on extraordinary and temporary conditions within the country, specifically the effects of the 7.0-magnitude earthquake that occurred on January 12, 2010.[3] In 2011, Haiti's designation was extended, and Haiti was also redesignated for TPS at the same time, expanding the number of Haitians in the United States eligible for TPS.[4] Haiti's designation was subsequently extended [5] several additional times before the termination was announced on January 18, 2018.[6]

The termination of Haiti's TPS designation is being challenged in several separate lawsuits, and court injunctions currently require DHS to continue TPS temporarily for Haiti pending further court order.[7] There are approximately 55,000 beneficiaries under the TPS designation for Haiti that the courts have continued and whose TPS-related documentation is automatically extended at least through October 4, 2021, in compliance with the court orders, unless a beneficiary's TPS is withdrawn for individual ineligibility.[8] Beneficiaries under the TPS designation for Haiti that continues under the *Ramos* and *Saget* preliminary injunctions who maintain individual eligibility for TPS will maintain their status as long as the injunctions in these lawsuits remain in effect and in accordance with the compliance notice that DHS published on December 9, 2020, unless superseded by future court orders or compliance notices.[9] The continuation of the 2011 designation of Haiti required by the preliminary injunctions is not a statutory ''extension'' of the designation determined by the Secretary as described in section 244(b)(3)(C) of the INA. Individuals with existing TPS who are covered by those injunctions should newly apply for TPS under this designation. This will help ensure that eligible individuals maintain TPS under this new designation of Haiti even if the injunctions cease to be in effect. An estimated additional 100,000 nationals of Haiti (and individuals having no nationality who last habitually resided in Haiti), regardless of their country of birth, will become eligible for TPS under this new designation, for an estimated total of 155,000 individuals who could potentially apply or re-apply for TPS under the new TPS designation.

Why was Haiti newly designated for TPS?

DHS and the Department of State (DOS) have reviewed conditions in Haiti. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month designation is warranted because of extraordinary and temporary conditions described below.

Overview

Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses.[10] Within this context, as noted by the United Nations Children's Fund (UNICEF), Haiti faces the challenges of ''rising food insecurity and malnutrition, [. . .] waterborne disease epidemics, and high vulnerability to natural hazards, all of which have been further exacerbated by the coronavirus disease 2019 (COVID–19) pandemic.'' [11]

Context

Haiti is a constitutional republic with a multiparty political system. The most recent national legislative elections were held in November 2016. Jovenel Moïse was elected as president for a 5-year term and took office in February 2017. Due to political gridlock and the failure of parliament to approve an elections law and a national budget,

minimum of 180 days, DHS has determined that it will provide the full 18 months of this designation for applicants to file their initial registration Form I–821 and, if desired, Form I–765 to obtain employment authorization documentation. Limiting the initial registration period to 180 days may place a burden on applicants who are unable to timely file but would otherwise be eligible for a grant of TPS. In addition, permitting registration throughout the entirety of the designation period could reduce the operational burden on USCIS, as incoming applications may be spread out over a longer period of time. This extended registration period is both in keeping with the humanitarian purpose of TPS and will better advance the goal of ensuring ''the Federal Government eliminates . . . barriers that prevent immigrants from accessing government services available to them.'' *See Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,* 86 FR 8277 (Feb. 5, 2021).

[3] See Designation of Haiti for Temporary Protected Status, 75 FR 3476 (Jan. 21, 2010).

[4] See Extension and Redesignation of Haiti for Temporary Protected Status, 76 FR 29000 (May 19, 2011),

[5] See Extension of the Designation of Haiti for Temporary Protected Status, 77 FR 59943 (Oct. 1, 2012), Extension of the Designation of Haiti for Temporary Protected Status, 79 FR 11808 (March 3, 2014); Extension of the Designation of Haiti for Temporary Protected Status, 80 FR 51582 (Aug 25, 2015); Extension of the Designation of Haiti for Temporary Protected Status, 82 FR 23830 (May 24, 2017).

[6] See Termination of the Designation of Haiti for Temporary Protected Status, 83 FR 2648 (January 18, 2018).

[7] See *Ramos* v. *Wolf,* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981)(district court's preliminary injunction against termination of four countries' TPS, including TPS for Haiti remains in effect pending 9th Circuit consideration of plaintiffs' request for en banc rehearing of appellate panel decision to vacate the district court injunction); *Saget* v. *Trump,* No. 1:18–cv–1599 (E.D.N.Y.) (preliminary injunction against termination of Haiti's TPS), *appeal filed,* No. 19–1685 (2d Cir.); *NAACP* v. *DHS,* No. 18–cv–00239 (D. Md.); and *Centro Presente* v. *Trump,* No. 18–cv–10340 (D. Mass).

[8] TPS-related documentation includes certain Employment Authorization Documents (EADs); Notices of Action (Forms I–797); and Arrival/Departure Records (Forms I–94) as described in Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020). If necessary, DHS will publish subsequent notices to ensure its continued compliance with court orders that may remain in effect beyond October 4, 2021.

[9] Id.

[10] See *e.g.,* Charles, Jacqueline, ''Haitian Journalists Injured as Nation Plunges Deeper into Turmoil Amid Constitutional Crisis,'' Miami Herald, Feb. 10, 2021, *https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249163765.html* and ''A Cycle of Instability': Haiti's Constitutional Crisis,'' CSIS, Feb. 8, 2021, *https://www.csis.org/analysis/cycle-instability-haitis-constitutional-crisis.*

[11] ''Humanitarian Action for Children: Haiti,'' United Nations Children's Fund (UNICEF), 2021, *https://www.unicef.org/media/87006/file/2021-HAC-Haiti.pdf.*

parliamentary elections scheduled for October 2019 did not take place. In January 2020, parliament lapsed, leaving only 10 senators and no deputies remaining in office, and on February 7, 2020, President Moïse began to rule by decree, without a legislative body.[12]

In March 2020, President Moïse appointed Joseph Jouthe as prime minister to head a new government. The president subsequently reappointed or replaced all elected mayors throughout the country when their terms ended in July 2020. As of November 2020, the president was the sole nationally elected leader empowered to act, as the 10 senators remaining in office were unable to conduct legislative activities due to a lack of quorum.[13]

President Moïse used executive decrees to schedule a vote on a new constitution June 27, 2021, and then elections for a new president and legislature on September 19, 2021. However, these moves were met with criticism from opposition parties who feared that these actions may allow President Moïse's party to retain power indefinitely.[14] Further, the international community has expressed the need to address election-related security, transparency and logistical issues so voting can take place. For example, on March 24, 2021, the U.N. Security Council underscored the need for Haiti to address ''essential security, transparency and logistical considerations and also reiterated the urgent need to hold free, fair, transparent and credible legislative elections, overdue since October 2019.'' [15] On May 24, 2021, U.S. Ambassador to the United Nations Linda Thomas-Greenfield met with President Moïse and conveyed deep concern regarding Haiti's ongoing political impasse, a lack of accountability for human rights violations, and deteriorating security conditions. Ambassador Thomas-Greenfield noted that to date, preparations for the constitutional referendum scheduled for June 27, 2021, had not been sufficiently transparent or inclusive, and reiterated that Haiti must hold free, fair, and transparent legislative and presidential elections in 2021.[16]

Human Rights Violations and Abuses

President Moïse became increasingly authoritarian through reliance on executive decrees to accomplish his agenda, including the creation of an intelligence agency accountable only to the president.[17] The Human Rights Component of the United Nations Integrated Office in Haiti and the Office of the High Commissioner for Human Rights reported a staggering 333% increase in the number of human rights violations and abuses by law enforcement officials and non-state actors, respectively, against the rights to life and security of person in the period between July 2018 and December 2019.[18] The *Miami Herald* has reported ''an atmosphere of heightened tension between the government and the press,'' citing as an example a February 2021 attack against journalists who were covering protests.[19] Also, on February 8, 2021 Moïse dismissed three Supreme Court judges who had been approached by the opposition as possible interim leaders to replace Moïse and head a transitional government.[20] In response to these events, the U.S. Embassy in Haiti issued a statement expressing concerns about ''any actions that risk damaging Haiti's democratic institutions.'' [21] On March 24, 2021, the United Nations Security Council noted ''with concern reported violations and abuses of international human rights, including some involving the alleged use of deadly force against protesters and reported arbitrary arrests and detentions'' and called on the Government to respect the freedoms of expression and association. It also called on the Inspector General of the Haitian National Police to conduct a thorough investigation of the reported incidents.[22]

Serious Security Concerns

Violent criminal gangs pose a growing challenge to state authority, including de facto control of territory. From 2019–2021 a new federation emerged, uniting urban criminal gangs that control entire neighborhoods in the capital city of Port-au-Prince.[23] DOS's Overseas Security Advisory Council (OSAC) reported in 2020 that gang activity was also on the rise outside of Port-au-Prince, and noting that the last weeks in November 2020 were particularly dangerous, with 14 kidnappings reported at that time.[24] In January 2021, a leading Haitian human rights organization, the Center for the Analysis and Research of Human Rights (CARDH), stated in its 2020 annual report that over a third of Haiti's voters now live in areas controlled by criminal gangs.[25] In January of 2021 the U.S. Agency for International Development (USAID) said, ''Security conditions have deteriorated in Port-au-Prince since late November [2020] due to an increase in kidnappings and political protests.'' [26]

In March 2021, the UN Security Council expressed its deep concern regarding the protracted political, constitutional, humanitarian, and security crises in Haiti.[27]

On April 21, 2021, DOS issued a Level 4 Travel Advisory for Haiti, advising travelers not to visit Haiti because of kidnapping, crime, and civil

[12] ''2020 Country Reports on Human Rights Practices: Haiti,'' United States Department of State, March 30, 2021, *https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/.*

[13] Id.

[14] See *e.g.,* Andre Paultre and Sarah Marsh ''The battle for democracy goes on in Haiti as Moïse gains power,'' The Christian Science Monitor, March 30, 2021, *https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power.*

[15] Security Council Presidential Statement Expresses Deep Concern over Multiple Crises in Haiti, Stressing Government's Primary Duty to Tackle Instability, United Nations Security Council Press Release, March 24, 2021

[16] ''Readout of a Meeting Between Ambassador Linda Thomas-Greenfield and Haiti's President Jovenel Moïse,'' United States Mission to the United Nations, May 24, 2021.

[17] Andre Paultre and Sarah Marsh ''The battle for democracy goes on in Haiti as Moïse gains power,'' The Christian Science Monitor, March 30, 2021, *https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power.*

[18] Unrest in Haiti: Their Impact on Human Rights and the State's Obligation to Protect all Citizens, United Nations Office of the High Commissioner for Human Rights/United National Integrated Office in Haiti, Jan. 18, 2021, *https://binuh.unmissions.org/en/unrest-haiti-their-impact-human-rights-and-state%E2%80%99s-obligation-protect-all-citizens-0.*

[19] Charles, Jacqueline, ''Haitian Journalists Injured as Nation Plunges Deeper into Turmoil Amid Constitutional Crisis,'' Miami Herald, Feb. 10, 2021, *https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249163765.html.*

[20] Paultre, Andre, ''Haitian Protesters, Police Clash After President Moves Against Top Judges,'' Reuters, Feb. 10, 2021, *https://www.reuters.com/article/us-haiti-politics/haitian-protesters-police-clash-after-president-moves-against-top-judges-idUSKBN2AA2X6.*

[21] U.S. Embassy Statement on February 9, 2021, U.S. Embassy in Haiti, Feb. 9, 2021, *https://ht.usembassy.gov/u-s-embassy-statement-on-february-9-2021/.*

[22] Statement by the President of the Security Council, United Nations Security Council, March 24, 2021.

[23] See *e.g.,* ''4 Police Die in Raid on Haiti Gang Stronghold'', Voice of America, March 13, 2021 (''Criminal networks exercise total control over several poor, densely populated neighborhoods of the capital, creating no-go zones where they hold kidnap victims.'')

[24] Haiti 2020 Crime and Safety Report, Overseas Security Advisory Council (OSAC), U.S. Department of State, Apr. 29, 2020, and December 17, 2020, *https://www.osac.gov/Content/Report/09752c66-7cac-47f7-a92e-188fe7af0f75.*

[25] See *https://cardh.org/archives/1519.*

[26] Haiti—Complex Emergency Fact Sheet #1, Fiscal Year 2021, U.S. Agency for International Development (USAID), Jan. 19, 2021, *https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-1-fiscal-year-fy-2021.*

[27] Statement by the President of the Security Council on Haiti, March 24, 2021.

unrest.[28] Media outlets characterized Haiti as suffering from ''escalating violence,'' including kidnappings and homicides,[29] and a ''public security free fall.'' [30] In early April 2021, *Agence France-Presse* reported that ''Kidnappings for ransom have surged in recent months in Port-au-Prince and other provinces, reflecting the growing influence of armed gangs.'' [31] The *Miami Herald* reported that ''Reports of kidnappings in Haiti continue to make headlines on a near daily basis, drawing alarm from international allies and humanitarian groups,'' [32] while the *Associated Press* noted that kidnapping ''has become so common that radio stations often broadcast pleas for help.'' [33] On April 11, 2021, 10 individuals were kidnapped in the town of Croix-des-Bouquets—including seven members of the Catholic clergy.[34] In response, the Archdiocese of Port-au-Prince issued a statement warning that the country ''is facing a 'descent into hell''' and criticizing the Haitian government for its inaction.[35] In mid-April 2021, rising levels of violence led schools, businesses, and banks across Haiti to close in protest.[36]

In an April 2021 report by Harvard Law School's International Human Rights Clinic and a consortium of Haitian civil society organizations, the authors describe complicity of state officials and police in gang attacks that left hundreds of people dead. [37] The report's authors asserted that the government has helped to unleash criminal violence on poor neighborhoods, including by providing gangs with money, weapons, police uniforms, and government vehicles and that such support has encouraged the gangs to grow to the point where they can no longer be reined in, allowing criminality to explode. According to the report, the United Nations warned that a lack of accountability contributed to an increase in gang attacks throughout 2020, including attacks on Cité Soleil, where police resources were reportedly used on multiple occasions.

In early April 2021, the *Miami Herald* reported on increasing violence on public transportation in Haiti, noting, ''Already driven to despair in Haiti by brutal poverty and a paralyzing political crisis, bus drivers and commuters are now having to grapple with surging violence on the country's public transportation. Robberies and kidnappings have become a daily reality as buses get intercepted by armed gangs controlling access to large swaths of the country.'' [38]

On June 10, 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported an upsurge in deadly clashes between gangs in Port-au-Prince displaced more than 5,000 people since the beginning of June.[39] According to OCHA, the displacement brings the overall number to some 10,000 residents who have been displaced in the past 12 months due to similar incidents.[40] Starting June 24, 2021, multiple news organizations reported one of Haiti's most powerful gang leaders warned that he was launching a ''revolution'' against the country's business and political elites, signaling a likely further escalation of violence in Haiti.[41] On July 7, 2021 a group of assailants attacked President Möise's residence and killed him. No one has claimed responsibility for the assassination.

Economic Situation

According to the World Bank, Haiti's economic and social development continue to be hindered by political instability, governance issues, and fragility. With a Gross Domestic Product (GDP) per capita of US$1,149.50 and a Human Development Index ranking of 170 out of 189 countries in 2020, Haiti remains the poorest country in the Latin America and Caribbean region and among the poorest countries in the world.[42] The World Bank further reports that even before the COVID–19 pandemic, the economy was contracting and facing significant fiscal imbalances. Following a contraction of 1.7% percent in 2019 in the context of the political turmoil and social discontent, GDP contracted by an estimated 3.8% in 2020, as the COVID–19 pandemic exacerbated the already weak economy and political instability.[43] It further reports that past marginal gains in poverty reduction have been undone by these recent shocks, with current estimates pointing to a poverty rate of nearly 60% in 2020 compared to the last official national estimate of 58.5% in 2012. About two thirds of the poor live in rural areas. The welfare gap between urban and rural areas is largely due to adverse conditions for agricultural production.[44] The Congressional Research Service (CRS) reported in March 2020 that ''Public frustration with economic woes has contributed greatly to ongoing demonstrations, some of which have become violent.'' [45] Protests have been spurred in part by the elimination of fuel subsidies in 2018 and subsequent increases in fuel prices.[46] In late 2019, protests in response to rising fuel costs precipitated

[28] Haiti Travel Advisory, U.S. Department of State, Apr. 21, 2021, *https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html.*

[29] Sanon, Evens, and Coto, Dánica, ''Surge in violence rattles Haiti as poverty, fear deepens,'' The Associated Press, Apr. 16, 2021, *https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916.*

[30] Tim Padgett, ''Haitian Prime Minister Resigns As Economic And Public Security Collapse Deepens,'' Miami NPR affiliate WLRN, April 14, 2021, *https://www.wlrn.org/news/2021-04-14/haitian-prime-minister-resigns-as-economic-and-public-security-collapse-deepens.*

[31] ''Catholic church says Haiti faces 'descent into hell' after clergy kidnappings,'' Agence France-Presse, Apr. 12, 2021, *https://www.theguardian.com/world/2021/apr/12/catholic-clergy-abucted-ransom-haiti-france.*

[32] Charles, Jacqueline, ''Haiti orphanage attacked by armed bandits, children sexually assaulted,'' manager says, Miami Herald, Apr. 13, 2021, *https://www.miamiherald.com/news/nation-world/world/americas/haiti/article250622224.html.*

[33] Sanon, Evens, and Coto, Dánica, ''Surge in violence rattles Haiti as poverty, fear deepens,'' The Associated Press, Apr. 16, 2021, *https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916.*

[34] Sanon, Evens, ''Catholic officials halt activity in Haiti for 9 kidnapped,'' The Associated Press, Apr. 21, 2021, *https://apnews.com/article/latin-america-haiti-kidnapping-port-au-prince-europe-9cd7e6f7077009e30830f277ece721db.*

[35] ''Catholic church says Haiti faces 'descent into hell' after clergy kidnappings,'' Agence France-Presse, Apr. 12, 2021. *https://www.theguardian.com/world/2021/apr/12/catholic-clergy-abucted-ransom-haiti-france.*

[36] Sanon, Evens, and Coto, Dánica, ''Surge in violence rattles Haiti as poverty, fear deepens,'' The Associated Press, Apr. 16, 2021, *https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916.*

[37] Harvard Law School International Human Rights Clinic and Observatoire Haïtien des crimes contre l'humanité, Killing With Impunity, State-Sanctioned Massacres in Haiti, *http://hrp.law.harvard.edu/wp-content/uploads/2021/04/Killing_With_Impunity-1.pdf,* April 2021.

[38] Charles, Jacqueline, ''When we aren't killed, they kidnap us.' Riding a bus in Haiti now a dangerous quest,'' Miami Herald, Apr. 8, 2021, *https://www.miamiherald.com/news/nation-world/world/americas/haiti/article248908489.html.*

[39] Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti.*

[40] Id.

[41] See *e.g.,* ''Haiti Gang Leader Launches 'Revolution' as Violence Escalates'', U.S. News and World Report, June 24, 2021, *https://www.usnews.com/news/world/articles/2021-06-24/haiti-gang-leader-launches-revolution-as-violence-escalates,* and ''Haiti gang leader threatens 'revolution'', The New York Carib News, June 26, 2021, *https://www.nycaribnews.com/articles/haiti-gang-leader-threatens-revolution/.*

[42] ''The World Bank in Haiti'', World Bank, April 26, 2021.

[43] Id.

[44] Id.

[45] Taft-Morales, Maureen, ''Haiti's Political and Economic Conditions,'' Congressional Research Service (CRS), p.5, Mar. 5, 2020, *https://fas.org/sgp/crs/row/R45034.pdf.*

[46] ''World Report 2021—Haiti,'' Human Rights Watch, Jan. 13, 2021, *https://www.hrw.org/world-report/2021/country-chapters/haiti.*

a halt in nearly all economic activity for a period of about eight weeks.

The United Nations Integrated Office in Haiti reports that, as a result of multiple crises including political instability and COVID–19, Haiti's economy contracted by 1.2% in 2019. Factories are operating at reduced capacity, unemployment is rising, the Haitian gourde continues to lose value against the United States dollar, inflation consistently exceeds 20%.[47]

On June 8, OCHA reported that the unprecedented level of violence and subsequent displacements as a result of gang violence is creating a host of secondary issues, such as the disruption of community-level social functioning, family separation, increased financial burdens on host families, forced school closures, loss of livelihoods and a general fear among the affected populations.[48]

Healthcare Situation

USAID reported in January 2020 that insufficient funding, a weak health service delivery system, a lack of qualified health professionals, and the lingering impact of the 2010 earthquake and Hurricane Matthew in 2016 pose key challenges to the delivery of healthcare services to Haiti's population.[49] In March 2020, the independent humanitarian analysis organization ACAPS reported on a severe lack of healthcare services and infrastructure across the country, noting that only 31% of Haitians have access to healthcare services.[50] Several vector-borne diseases are prevalent in Haiti, including malaria, chikungunya, dengue, and Zika.[51] Diphtheria is endemic, and cases have increased in recent years.[52] Treatment of these types of diseases is hampered by a lack of healthcare infrastructure and medication, and a low vaccination rate.[53] The current epidemiological situation of cholera in Haiti has improved overall, but the medical community appears divided on cholera's current prevalence in Haiti.[54] Special Representative of the Secretary General La Lime said the COVID–19 pandemic is stretching the country's fragile health system: In a country of more than 11 million inhabitants, La Lime explained that Haiti only has the capacity to treat a few hundred patients at a time, due to suboptimal coordination within the state apparatus, inadequate funding of the national response plan, and staunch opposition by local communities to the opening of these centers, a manifestation of the lingering climate of denial, stigma and discrimination.[55]

COVID–19's Exacerbation of Food Insecurity and Lack of Access to Basic Services

High rates of poverty and natural disasters, including earthquakes and hurricanes, have contributed to elevated levels of food insecurity in Haiti.[56] According to the World Food Programme (WFP), Haiti has one of the highest levels of food insecurity in the world.[57] More than half of the population is chronically food insecure.[58] According to UNICEF, 4.1 million Haitians (nearly 40 per cent of the Haitian population) are estimated to be food insecure, and the estimated number of children suffering from acute malnutrition has risen to 167,000 as of May 2020.[59]

In an October 2020 report, the Food and Agriculture Organization of the United Nations (FAO) and the WFP identified Haiti as one of 20 ''acute food insecurity hotspots'' [60] in the world.[61] The report also noted that ''COVID–19-related restrictions have exacerbated an already high acute food insecurity situation, reducing availability of and access to food.'' [62]

In mid-March 2021, FAO stated that the effects of the COVID–19 pandemic—combined with economic instability, civil unrest, and recurring shocks linked to natural disasters including droughts, earthquakes, floods and hurricanes, have led to increased food insecurity and other humanitarian needs throughout the country.[63]

In early May 2021, USAID reported that the socioeconomic impacts of coronavirus disease (COVID–19) mitigation measures—along with ongoing violence and instability and persistent economic challenges—continue to affect access to services for vulnerable people in Haiti, where approximately 4.4 million people are in need of humanitarian assistance, according to the UN.[64]

On June 10, 2021, OCHA reported that as a result of deadly gang clashes, the displaced are in need of urgent humanitarian assistance and protection. Priority needs include sanitation, shelter, access to clean water and food.[65]

What authority does the Secretary have to designate Haiti for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary,[66] after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist. The

[47] ''United Nations Integrated Office in Haiti: Report of the Secretary-General,'' United Nations Security Council, pg 9, Feb. 11, 2021, *https://reliefweb.int/report/haiti/united-nations-integrated-office-haiti-report-secretary-general-s2021133.*

[48] ''HAITI: Displacement in Port-au-Prince Situation Report No. 1'', OCHA, June 1–8, 2021.

[49] ''Haiti Health Fact Sheet,'' U.S. Agency for International Development (USAID), Jan. 2020, *https://www.usaid.gov/sites/default/files/documents/1862/USAID_Haiti_Health_Fact_Sheet_-_January_2020.pdf.*

[50] ''Briefing Note: Haiti,'' ACAPS, p.4, Mar. 23, 2020, *https://www.acaps.org/sites/acaps/files/products/files/20200323_acaps_briefing_note_complex_crisis_in_haiti.pdf.*

[51] Brown, Clive M.; Ejike-King, Lacreisha; Gracia, J. Nadine; and Sampson, Dana M.; Chapter 10: Haiti, Yellow Book, Centers for Disease Control and Prevention, last reviewed Jun. 24, 2019, accessed Feb. 12, 2021, *https://wwwnc.cdc.gov/travel/yellowbook/2020/popular-itineraries/haiti.*

[52] Brown, Clive M.; Ejike-King, Lacreisha; Gracia, J. Nadine; and Sampson, Dana M.; Chapter 10: Haiti, Yellow Book, Centers for Disease Control and Prevention, last reviewed Jun. 24, 2019, accessed Feb. 12, 2021, *https://wwwnc.cdc.gov/travel/yellowbook/2020/popular-itineraries/haiti.*

[53] ''Briefing Note: Haiti,'' ACAPS, p.4, Mar. 23, 2020, *https://www.acaps.org/sites/acaps/files/products/files/20200323_acaps_briefing_note_complex_crisis_in_haiti.pdf.*

[54] *See e.g.,* Henrys, Jean et all, ''Cholera in Haiti,'' The Lancet, Dec. 2020, *https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(20)30450-2/fulltext?rss=yes.*

[55] ''Haiti's Stability in Peril without Strong Response to COVID–19, Legal Expert Tells Security Council,'' June 19, 2020, *https://www.un.org/press/en/2020/sc14218.doc.htm.*

[56] ''Country Brief—Haiti,'' World Food Programme (WFP), p. 1, Oct. 2020, *https://reliefweb.int/report/haiti/wfp-haiti-country-brief-october-2020.*

[57] ''Haiti,'' World Food Programme (WFP), accessed Feb. 5, 2021, *https://www.wfp.org/countries/haiti.*

[58] ''Country Brief—Haiti,'' World Food Programme (WFP), p. 1, Oct. 2020, *https://reliefweb.int/report/haiti/wfp-haiti-country-brief-october-2020.*

[59] ''Haiti Humanitarian Situation Report'', UNICEF, January–December 2020, *https://www.unicef.org/media/94046/file/Haiti-SitRep-December-2020.pdf.*

[60] ''FAO–WFP Early Warning Analysis of Acute Food Insecurity Hotspots: October 2020,'' Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP), p.6, Nov. 2020, *http://www.fao.org/3/cb1907en/CB1907EN.pdf.*

[61] Id. at p.5–6,12.

[62] Id. at p.12.

[63] ''Haiti | Humanitarian Response Plan 2021,'' Food and Agriculture Organization of the United Nations (FAO), p.1, Mar. 11, 2021, *https://reliefweb.int/report/haiti/haiti-humanitarian-response-plan-2021.*

[64] ''Haiti—Complex Emergency Fact Sheet #2, Fiscal Year (FY) 2021,'' U.S. Agency for International Development (USAID), p.2, May 4, 2021, *https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-2-fiscal-year-fy-2021.*

[65] Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti*

[66] INA § 244(b)(1) prescribes this power to the Attorney General. Congress transferred this authority from the Attorney General to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135.

decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, or termination of or extension of a designation. *See* INA section 244(b)(5)(A); 8 U.S.C. 1254a(b)(5)(A).[67] The Secretary, in his or her discretion, may then grant TPS to eligible nationals of that foreign state (or individuals having no nationality who last habitually resided in the designated foreign state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

Notice of the Designation of Haiti for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate U.S. Government agencies, the statutory conditions supporting Haiti's designation for TPS on the basis of extraordinary and temporary conditions are met. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C). I estimate approximately 155,000 individuals are eligible to apply for TPS under the designation of Haiti. On the basis of this determination, I am designating Haiti for TPS for 18 months, from August 3, 2021 through February 3, 2023. See INA section 244(b)(1)(C) and (b)(2); 8 U.S.C. 1254a(b)(1)(C), and (b)(2).

Alejandro N. Mayorkas

Secretary, U.S. Department of Homeland Security.

Eligibility and Employment Authorization for TPS

Required Application Forms and Application Fees To Register for TPS

ALL APPLICANTS, including individuals whose TPS under the previous designation of Haiti has been continued under preliminary injunctions issued by certain courts and 85 FR 79208 (Dec. 9, 2020), should follow these instructions: You must submit an Application for Temporary Protected Status (Form I–821) as a *new applicant* by selecting ''1.a This is my initial (first time) application for Temporary Protected Status (TPS). I do not currently have TPS,'' along with the required $50 fee for Form I–821 or request for fee waiver. If your TPS is currently continuing under the court orders in *Ramos* and *Saget,* checking this 1.a. box as an initial applicant under this new designation of Haiti does not affect the continuation of your TPS while those orders remain. However, if those orders are no longer in effect applying for TPS under this **Federal Register** Notice will help ensure that you have TPS until the end of the designation as long as you remain eligible. USCIS understands that you *do* currently have TPS if you are covered by the court orders, and checking Box 1.a. will not be deemed a misrepresentation on your part.

You may request a fee waiver by submitting a Request for a Fee Waiver (Form I–912). You must also pay the biometrics services fee if you are age 14 or older, unless USCIS grants a fee waiver. Please see additional information under the ''Biometric Services Fee'' section of this Notice. You are not required to submit an I–765 or have an EAD, but see below for more information if you want to work in the United States.

How TPS Beneficiaries Can Obtain an Employment Authorization Document (EAD)

Everyone must provide their employer with documentation showing that they have the legal right to work in the United States. TPS beneficiaries are eligible to apply for and obtain an EAD, which proves their legal right to work. TPS applicants who want to obtain an EAD valid through February 3, 2023 must file an Application for Employment Authorization (Form I–765) and pay the Form I–765 fee (or request a fee waiver by submitting a Request for a Fee Waiver (Form I–912)). TPS applicants may file this form along with their TPS application, or at a later date, provided their TPS application is still pending or has been approved.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *uscis.gov/tps*. Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Refiling a TPS Registration Application After Receiving a Denial of a Fee Waiver Request

If you receive a denial of a fee waiver request, you must refile your Form I–821 for TPS along with the required fees during the registration period, which extends until February 3, 2023, in order to continue seeking initial TPS or to newly register to avoid losing protection in the event that the court injunctions are lifted. You may also file for your Employment Authorization Document on Form I–765 with payment of the fee along with your TPS application or at any later date you decide you want to request an EAD during the registration period.

Filing Information

USCIS offers the option to applicants for TPS under Haiti's designation to file Form I–821 and related requests for EADs online or by mail. When filing an initial TPS application, applicants can also request an EAD by submitting a completed Form I–765, Request for Employment Authorization, with their Form I–821.

Online filing: Form I–821 and I–765 are available for concurrent filing online.[68] To file these forms online, you must first create a USCIS online account.[69]

Mail filing: Mail your application for TPS to the proper address in Table 1.

Table 1—Mailing Addresses

Mail your completed Application for Temporary Protected Status (Form I–821) and Application for Employment Authorization (Form I–765), Form I–912 for a fee waiver (if applicable) and supporting documentation to the proper address in Table 1.

[67] This availability of judicial review is under consideration by the courts in the TPS litigation referenced supra.

[68] Find information about online filing at Forms Available to File Online, *https://www.uscis.gov/file-online/forms-available-to-file-online*.

[69] *https://myaccount.uscis.gov/users/sign_up*.

TABLE 1—MAILING ADDRESSES

If you . . .	Mail to . . .
Are a beneficiary under the TPS designation for Haiti and you live in the following states: Florida, New York.	U.S. Postal Service (USPS), U.S. Citizenship and Immigration Services, Attn: TPS Haiti, P.O. Box 660167, Dallas, TX 75266–0167. FedEx, UPS, or DHL: U.S. Citizenship and Immigration Services, Attn: TPS Haiti (Box 660167), 2501 S. State Highway, 121 Business Suite 400, Lewisville, TX 75067–8003.
Are a beneficiary under the TPS designation for Haiti and you live in any other state.	U.S. Postal Service (USPS), U.S. Citizenship and Immigration Services, Attn: TPS Haiti, P.O. Box 24047, Phoenix, AZ 85074–4047. FedEx, UPS, or DHL: U.S. Citizenship and Immigration Services, Attn: TPS Haiti (Box 24047), 1820 E. Skyharbor Circle S, Suite 100, Phoenix, AZ 85034.

If you were granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD, please mail your Form I–765 application to the appropriate mailing address in Table 1. When you are requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at *uscis.gov/tps* under ''Haiti.''

Biometric Services Fee for TPS

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must generally submit a biometric services fee. As previously stated, if you demonstrate an inability to pay the biometric services fee you may be able to have the fee waived. A fee waiver may be requested by submitting a Request for Fee Waiver (Form I–912). For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *uscis.gov/tps*. If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometric screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *dhs.gov/privacy*.

General Employment-Related Information for TPS Applicants and Their Employers

How can I obtain information on the status of my TPS application and EAD request?

To get case status information about your TPS application, as well as the status of your TPS-based EAD request, you can check Case Status Online at *uscis.gov*, or visit the USCIS Contact Center at *uscis.gov/contactcenter*. If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

When hired, what documentation may I show to my employer as evidence of identity and employment authorization when completing Form I–9?

You can find the Lists of Acceptable Documents on the third page of Form I–9, Employment Eligibility Verification, as well as the Acceptable Documents web page at *uscis.gov/i-9-central/acceptable-documents*. Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt as described in the Form I–9 Instructions. The TPS EADs that DHS automatically extended in the December 9, 2020 compliance notice will remain valid until at least October 4, 2021.[70] Employers may not reject a document based on the fact that it has been automatically extended, or due to a future expiration date. An EAD is an acceptable document under List A. Individuals whose existing TPS-related documentation continues through October 4, 2021, in accordance with the court orders in *Ramos* and *Saget* and the DHS **Federal Register** notice at 85 FR 79208 (Dec. 9, 2020), may present documentation as described in that notice to their employers for purposes of demonstrating employment eligibility through October 4, 2021. Additional information about Form I–9 is available on the I–9 Central web page at *uscis.gov/I–9Central*.

If I have an EAD based on another immigration status, can I obtain a new TPS-based EAD?

Yes, if you are eligible for TPS, you can obtain a new EAD, regardless of whether you have an EAD or work authorization based on another immigration status. If you want to obtain a new TPS-based EAD valid through February 3, 2023, then you must file Form I–765, Application for Employment Authorization, and pay the associated fee (unless USCIS grants your fee waiver request).

Can my employer require that I provide any other documentation such as evidence of my status or proof of my Haitian citizenship or a Form I–797C showing that I registered for TPS for Form I–9 completion?

No. When completing Form I–9, employers must accept any documentation you choose to present from the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C

[70] See Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020).

receipt. Employers need not reverify List B identity documents. Employers may not request proof of Haitian citizenship or proof of registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin. Employers can refer to the compliance notice that DHS published on December 9, 2020 for information on how to complete the Form I–9 with TPS EADs that DHS extended through October 4, 2021.[71]

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov*. USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov*.

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov*. USCIS accepts calls in English, Spanish and many other languages. Employees or job applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based on citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I–9 Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of a TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot confirm an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *justice.gov/ier* and the USCIS and E-Verify websites at *uscis.gov/i-9-central* and *e-verify.gov*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

This **Federal Register** Notice does not invalidate the compliance notice DHS issued on December 9, 2020, which extended the validity of certain TPS documentation through October 4, 2021, and does not require individuals to present an I–797, Notice of Action. For Federal purposes, individuals approved for TPS may show their Form I–797, Notice of Action, indicating approval of their Form I–821 application, or their A12 EAD (including those that have been extended) to prove that they have TPS. USCIS can also confirm whether an individual has TPS if they show a C19 EAD, which indicates prima facie eligibility for TPS. While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents they require you to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are covered under TPS or show you are authorized to work based on TPS. Examples of such documents are:

- Your new EAD with a category code of A12 or C19 for TPS;
- Your Form I–94, Arrival/Departure Record; or
- Your Form I–797, the notice of approval, for a current Form I–821, if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. SAVE can verify when an individual has TPS based on the documents above. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at *uscis.gov/save/save-casecheck,* then by clicking the ''Check Your Case'' button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and SAVE verification case number or an immigration identifier number that you provided to the benefit-granting agency. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted on or will act on a SAVE verification and you do not believe the response is correct, find detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request for information about

[71] See Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020).

correcting records on the SAVE website at *www.uscis.gov/save*.

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BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2021–N005; FXES11130100000–212–FF01E00000]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for White Bluffs Bladderpod

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for review and public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for White Bluffs Bladderpod (*Physaria douglasii* subsp. *tuplashensis*), listed as threatened under the Endangered Species Act, and endemic to Franklin County, Washington. We request review and comment on this draft recovery plan from Federal, State, and local agencies; Native American Tribes; and the public.

DATES: To ensure consideration, comments on the draft recovery plan must be received on or before October 4, 2021. However, we will accept information about any species at any time.

ADDRESSES:

Document availability: Obtain the recovery plan by the following method.

- *Internet: http://www.fws.gov/endangered/species/recovery-plans.html* or *http://www.fws.gov/pacific/ecoservices/endangered/recovery/plans.html*.

Comment submission: You may submit written comments and materials by one of the following methods:

- *U.S. mail:* Jeff Krupka, Central Washington Field Office, at the above U.S. mail address.
- *Fax:* 360–753–9405.
- *Email: WFWO_LR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brad Thompson, State Supervisor, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, at the above U.S. mail address; telephone 360–753–4652. If you use a telecommunications device for the deaf, call the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the Draft Recovery Plan for White Bluffs Bladderpod (*Physaria douglasii* subsp. *tuplashensis*). The subspecies, listed as threatened under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), is a plant endemic to the White Bluffs of Franklin County, Washington. The draft recovery plan includes specific goals, objectives, and criteria that should be met prior to our consideration of removing the species from the Federal List of Endangered and Threatened Plants. We request review and comment on this draft recovery plan from Federal, State, and local agencies; Native American Tribes; and the public.

Background

The White Bluffs bladderpod is a short-lived, herbaceous perennial that occurs intermittently in a narrow, linear strip about 15 kilometers (9.3 miles) long, along sparsely vegetated upper and top exposures of the White Bluffs in eastern Washington State. This plant is closely associated with highly alkaline, cemented calcium carbonate soil along the Columbia River in the State of Washington. In April 2013, and as reaffirmed in December 2013, the White Bluffs bladderpod was listed as a threatened species pursuant to the Act (78 FR 23983; April 23, 2013; 78 FR 76995; December 20, 2013).

Recovery Planning Process

Recovery of endangered and threatened animals and plants is a primary goal of our endangered species program. To help guide the recovery effort, we prepare recovery plans for most listed species. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting, and estimate time and cost for implementing recovery measures.

Recovery Planning and Implementation

The Service recently revised its approach to recovery planning, and is now using a process termed recovery planning and implementation (RPI) (see *https://www.fws.gov/endangered/esa-library/pdf/RPI.pdf*). The RPI approach is intended to reduce the time needed to develop and implement recovery plans, increase recovery plan relevancy over a longer timeframe, and add flexibility to recovery plans so they can be adjusted to new information or circumstances. Under RPI, a recovery plan includes the statutorily required elements under section 4(f) of the Act (objective and measurable recovery criteria, site-specific management actions, and estimates of time and costs), a concise introduction, and our strategy for how we plan to achieve species recovery. The RPI recovery plan is supported by two supplementary documents: A species status assessment or biological report, which describes the best available scientific information related to the biological needs of the species and assessment of threats; and the recovery implementation strategy, which details the particular near-term activities needed to implement the recovery actions identified in the recovery plan. Under this approach, we can more nimbly incorporate new information on species biology or details of recovery implementation by updating these supplementary documents without concurrent revision of the entire recovery plan, unless changes to statutorily required elements are necessary.

Recovery Plan Components

The primary recovery strategy for the White Bluffs bladderpod is to increase the capability of populations to withstand stochastic events; to establish new populations as possible and appropriate; to provide a safety margin against catastrophic events; and to increase the ecological and/or genetic diversity of the subspecies. Recovery will hinge on two types of strategies, direct and indirect, to improve habitat, reduce threats, and preserve or enhance the ability of individuals to survive and reproduce in the range of conditions they are likely to experience.

We may initiate an assessment of whether recovery has been achieved and delisting is warranted when the recovery criteria have been met, including once a second population has been discovered or established on conserved lands and is managed in a way that is compatible with White Bluffs bladderpod conservation. All populations must be self-sustaining.

Request for Public Comments

Section 4(f) of the Act requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (59 FR 34270; July 1, 1994). In an appendix to the approved final recovery plan, we will summarize and respond to the issues raised during public comment and peer review. Substantive comments may or may not result in changes to the recovery plan. Comments regarding recovery plan implementation will be forwarded as appropriate to Federal and other entities so that they can be taken into account during the course of implementing recovery actions.

We will consider all comments we receive by the date specified in **DATES** prior to final approval of the plan.

Public Availability of Comments

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

The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Robyn Thorson,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–16521 Filed 8–2–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–874]

Bulk Manufacturer of Controlled Substances Application: Purisys, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Purisys, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 4, 2021. Such persons may also file a written request for a hearing on the application on or before October 4, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June 30, 2021, 1550 Olympic Drive, Athens, Georgia 30601–1602, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Opium, powdered.	9639	II
Opium, granulated.	9640	II

The company plans to bulk manufacture the listed controlled substances as Active Pharmaceutical Ingredient (API) for distribution to its customers. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–16500 Filed 8–2–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–873]

Bulk Manufacturer of Controlled Substances Application: Cerilliant Corporation

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cerilliant Corporation has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTAL INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 4, 2021. Such persons may also file a written request for a hearing on the application on or before October 4, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June, 24, 2021, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
FUB-144 (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7014	I
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB-FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I

Controlled substance	Drug code	Schedule
FUB-AMB, MMB-FUBINACA, AMB-FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ-2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F-AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluropentyl)-1H-indazole-3-carboximide)	7025	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB, 5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F-EDMB-PINACA (ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F-MDMB-PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
MMB-CHMICA, AMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
FUB-AKB48, FUB-APINACA, AKB48 N-(4-FLUOROBENZYL) (N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide).	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F-CUMYL-PINACA, 5GT-25 (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide)	7083	I
5F-CUMYL-P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4-CN-CUML-BUTINACA, 4-cyano-CUMYL-BUTINACA, 4-CN-CUMYL BINACA, CUMYL-4CN-BINACA, SGT-78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide).	7089	I
SR-19 (Also known as RCS-4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate	7221	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-MEAP (4-Methyl-alpha-ethylaminopentiophenone)	7245	I
N-Ethylhexedrone	7246	I
Alpha-ethyltryptamine	7249	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2C-T-2 (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4′-Chloro-alpha-pyrrolidinovalerophenone	7443	I
MPHP, 4′-Methyl-alpha-pyrrolidinohexiophenone	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
N-Benzylpiperazine	7493	I

Controlled substance	Drug code	Schedule
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C-D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C-E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C-H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C-I 2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C-C 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C-N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C-T-4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethypentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
α-PHP, alpha-Pyrrolidinohexanophenone	7544	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
Ethylone	7547	I
PV8, alpha-Pyrrolidinoheptaphenone	7548	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Codeine methylbromide	9070	I
Brorphine	9098	I
Dihydromorphine	9145	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Pholcodine	9314	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Isotonitazene	9614	I
Dipipanone	9622	I
Hydroxypethidine	9627	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Trimeperidine	9646	I
Phenomorphan	9647	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Para-Methylfentanyl	9817	I
4′-Methyl Acetyl Fentanyl	9819	I
Ortho-Methyl Methoxyacetyl Fentanyl	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I

Controlled substance	Drug code	Schedule
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl Fentanyl	9839	I
Valeryl fentanyl	9840	I
Phenyl Fentanyl	9841	I
Beta′-Phenyl Fentanyl	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Crotonyl Fentanyl	9844	I
Cyclopropyl Fentanyl	9845	I
Ortho-Fluorobutyryl Fenanyl	9846	I
Cyclopentyl fentanyl	9847	I
Ortho-Methyl Acetylfentanyl	9848	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl Carbamate	9851	I
Ortho-Fluoroacryl Fentanyl	9852	I
Ortho-Fluoroisobutyryl Fentanyl	9853	I
Para-Fluoro Furanyl Fentanyl	9854	I
2′-Fluoro Ortho-Fluorofentanyl	9855	I
Beta-Methyl Fentanyl	9856	I
8Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Methadone	9250	II
Methadone intermediate	9254	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Thiafentanil	9729	II
Racemethorphan	9732	II
Alfentanil	9737	II

Controlled substance	Drug code	Schedule
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. In reference to dug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–16499 Filed 8–2–21; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On July 23, 2021, the United States lodged a proposed consent decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States* v. *Chains and Links, Inc. et al., Case No. 3:18–cv–50268* (N.D. Ill.). The proposed consent decree, if approved by the Court after public comment, will fully resolve claims of the United States Environmental Protection Agency (''EPA'') against the two remaining defendants named in the complaint, which seeks to recover response costs incurred by EPA in cleaning up a portion of the Bautsch Gray Mine Superfund site (''Site'') near Galena, Illinois. Under a prior consent decree, which was approved by the Court in May, EPA will recover $1.292 million in response costs over an 18-month period. Under the proposed consent decree, the settling defendants—West Galena Development, Inc. (''WGD'') and the Estate of Lois Jean Wienen (''Estate'')—will reimburse the United States for $1.25 million in response costs, bringing our total recovery in this action to $2.542 million.

The United States brought this action in 2016 asserting claims under Sections 106, 107, and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606, 9607(a), and 9613(g)(2). To resolves these claims, WGD and the Estate will not only reimburse the United States for response costs, but also undertake limited activities with respect to a portion of the Site that is jointly owned by WGD and one of the prior settling defendants. WGD and the Estate, for instance, must provide EPA and its contractors with access to the property and must cooperate with the prior-settling defendants in executing an environmental covenant that will give EPA enforcement rights relating to the property. If the property is sold in the future at a price that reflects the value of the property after it has been cleaned up in accordance with the EPA-selected remedy for the Site, EPA will receive 75% of the net proceeds from the sale. Finally, the proposed consent decree resolves a counterclaim asserted by WGD for breach of contract and relief under the Administrative Procedures Act.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Chains and Links, Inc. et al.,* D.J. Ref. No. 90–11–3–10235. All comments must be submitted no later than thirty (30) days after the publication date of this revised notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Acting Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will also provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $17.25 (69 pages at 25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices and signature pages, the cost is $8.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–16520 Filed 8–2–21; 8:45 am]

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NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings; Audit Committee Meeting

TIME AND DATE: 3:00 p.m., Wednesday, August 11, 2021.

PLACE: Via Conference Call.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Committee Meeting.

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b (c)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive Session

Agenda

I. Call to Order
II. Executive Session with Chief Audit Executive
III. Action Item Request to Cancel Internal Audit Project: Tipalti-Third Party Vendor Contract
IV. Discussion Item Tracking Open Recommendations
  a. Dependent on Other IT Projects
  b. Monitoring Identity Access Management (IAM) Development
  i. ITS Audit and Security Roadmap
V. Discussion Item Internal Audit Status Reports
  a. Internal Audit Reports Awaiting Managements Response
  - HPN Launchpad
  - Application and Systems Change Management

- Promotions and Compensation
- Project Reinvest Wind-Down
- Grant Appropriations Disbursement

b. Internal Audit Performance Scorecard
c. FY21 Plan Projects' Activity Summary as of July 13, 2021
d. Implementation of Internal Audit Recommendations

VI. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *Lthompson@nw.org*.

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2021–16645 Filed 7–30–21; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92518; File No. SR–CBOE–2021–042]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Enhance and Clarify its Price Adjust Process for Certain Market-Maker Interest, Specifically Book Only Orders and Bulk Messages Submitted Through Bulk Ports and Modify the Bulk Message Fat Finger Check

July 28, 2021.

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 July 16, 2021, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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 enhance and clarify its Price Adjust process and modify the bulk message fat finger check. 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 enhance its Price Adjust (as defined below) process for certain Market-Maker interest—specifically Book Only[5] orders and bulk messages[6] submitted through bulk ports[7]—and clarify other parts of that process, as well as modify the bulk message fat finger check.

Rule 5.32(b) describes the Price Adjust process, which applies to an order by default or not designated as Cancel Back.[8] The System adjusts the price (''Price Adjust'') of an order designated as Price Adjust (or an order not designated as Cancel Back) as follows:

(A) If a buy (sell) non-all-or-none (''AON'') order at the time of entry, would lock or cross:

(i) A Protected Quotation of another options exchange or the Exchange, the System ranks and displays the order at one minimum price variation below (above) the current national best offer (''NBO'') (national best bid (''NBB''); or

(ii) the offer (bid) of a sell (buy) AON order resting on the Book at or better than the Exchange's best offer (bid), the System ranks the resting AON order one minimum price variation above (below) the bid (offer) of the non-AON order.

(B) Incoming AON Orders. If a buy (sell) AON order, at the time of entry, would:

(i) Cross a Protected Offer (Bid) of another options exchange or a sell (buy) AON order resting on the Book at or better than the Exchange's best offer (bid), the System ranks the incoming AON order at a price equal to the Protected Offer (Bid) or the offer (bid) of the resting AON order, respectively; or

(ii) lock or cross a Protected Offer (Bid) of the Exchange, the System ranks the incoming AON order at a price one minimum price variation below (above) the Protected Offer (Bid).

This Price Adjust process applies to Book Only orders and bulk messages submitted that are designated as Price Adjust (and not designated as Cancel Back). Separately, a Book Only order or bulk message bid or offer (or unexecuted portion) is rejected if submitted by a Market-Maker with an appointment in the class through a bulk port if it would execute against a resting offer or bid, respectively with a capacity of M. Therefore, if a Book Only bulk message bid of an appointed Market-Maker does not execute upon entry and would rest at the same price as an offer not represented by a capacity of M, that bid price would be adjusted and rest on the book at one minimum price variation below the offer. However, if the offer was represented by a capacity of M, the System would reject the bid since it may not execute against that resting offer.

The proposed rule change amends the Price Adjust process so that an appointed Market-Maker's Book Only bids and offers submitted through a bulk port may have the opportunity to rest on the book if they are submitted at the same price as the opposite side of the market when represented by Market-Maker interest. Specifically, the proposed rule change adds

[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).

[5] Rule 5.6(c) defines a ''Book Only'' order as an order the System ranks and executes pursuant to Rule 5.32, subjects to the Price Adjust process pursuant to Rule 5.32, or cancels, as applicable (in accordance with User instructions), without routing away to another exchange. Users may designate bulk messages as Book Only as set forth in Rule 5.5(c).

[6] The term ''bulk message'' means a single electronic message a User submits with an M Capacity (for the account of a Market-Maker) to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. A User may submit a bulk message through a bulk port as set forth in Rule 5.6(c)(3). The System handles a bulk message bid or offer in the same manner as it handles an order or quote unless the Rules specify otherwise. *See* Rule 1.1.

[7] A ''bulk port'' is a dedicated logical port that provides Users with the ability to submit bulk messages, single orders, and auction responses, each subject to certain restrictions. *See* Rule 5.5(c)(3).

[8] Rule 5.6(c) defines a ''Cancel Back'' order as an order (including a bulk message) a User designates to not be subject to the Price Adjust Process pursuant to Rule 5.32 that the System cancels or rejects (immediately at the time the System receives the order or upon return to the System after being routed away) if displaying the order on the Book would create a violation of Rule 5.67, or if the order cannot otherwise be executed or displayed in the Book at its limit price.

subparagraph (C) to Rule 5.32(b)(1), which states if the bid (offer) of a Book Only buy (sell) non-AON order or bulk message [9] submitted through a bulk port at the time of entry would lock or cross (1) a protected offer (bid) of another options exchange [10] or a resting offer (bid) with a Capacity of M, the System ranks and displays the order at one minimum price variation below (above) the better of the current away best offer (''ABO'') (away best bid (''ABB'')) or resting M-Capacity offer (bid); or (2) the offer (bid) of a sell (buy) AON order resting on the Book at or better than the Exchange's best offer (bid), the System ranks the resting AON order one minimum price variation above (below) the bid (offer) of the non-AON order.[11] This will permit appointed Market-Maker orders and quotes submitted through bulk ports (the primary purpose of which is to provide liquidity to the Book) that are subject to the Price Adjust process (indicating the submitting Market-Makers prefer a price adjustment to rejection) so their quotes may rest in the Book if they would otherwise lock interest against which they could not execute.

The proposed rule change makes nonsubstantive changes to current Rules 5.32(b)(1)(A) and (B) to set forth to which orders and bulk messages the functionality in each subparagraph will apply; the proposed rule change has no impact on how the Price Adjust process applies to orders and bulk messages other than Book Only orders and bulk messages submitted through a bulk port that would otherwise execute against resting M-Capacity interest. Similarly, the proposed rule change updates Rule 5.32(c)(6) to indicate that provision will only apply to Cancel Back Book Only orders and bulk messages submitted through bulk ports. Book Only orders and bulk messages submitted through a bulk port may either be Price Adjust or Cancel Back. As Price Adjust Book Only orders and bulk messages submitted through a bulk port will be handled as described above if they would execute against resting M-Capacity interest, this provision will now only apply to Cancel Back Book Only bulk messages and orders submitted through bulk ports.[12]

The proposed rule change also clarifies in Rule 5.32(b)(1) that the Price Adjust process applies to an order or remaining portion that does not execute upon entry. This is consistent with current functionality, as Price Adjust orders may execute upon entry against resting interest—the price adjustment applies only to permit any remaining interest from an incoming order to rest at a price that would not lock or cross opposite side interest in accordance with the linkage plan.

Additionally, Rule 5.32(b)(2) provides that if the circumstances that caused the System to adjust the price of an order pursuant to subparagraph (b)(1) change so that it would not lock or cross, as applicable, a Protection Quotation or an AON resting on the Book at a price at or better than the BBO,[13] the System gives the Price Adjust order a new timestamp. Currently, the rule states the System ranks or displays the order at a price that locks or is one minimum price variation away from the new Protection Quotation or AON resting on the Book at or better than the BBO, as applicable. Pursuant to current subparagraph (3), the System adjusts the ranked and displayed price of an order subject to Price Adjust once or multiple times depending upon the User's instructions and changes to the prevailing NBBO. The proposed rule change deletes this subparagraph (3) and moves the concept of single or multiple price adjust to subparagraph (2).[14] The proposed rule change clarifies how each of single price adjust and multiple price adjust currently function. Specifically, if a User designated an order as eligible for single price adjust, the System ranks and displays the order at the price of the Protected Quotation that was present in the Book at the time of order entry. That is the price at which the Price Adjust order would have entered the Book but for the presence of that Protected Quotation.

Additionally, the proposed rule change clarifies that bulk message bids and offers are only subject to single price adjust. The Exchange understands that Market-Makers' automated quote streaming systems review their resting interest when the markets change and update as appropriate in accordance with their business and risk models. Therefore, the Exchange does not believe it is necessary for it also to review resting Market-Maker interest continuously and reprice as the market changes. The proposed rule change amends proposed subparagraph (2)(B) to indicate it applies to orders designated as multiple price adjust, and specifies the repricing described in that paragraph may occur multiple times as the opposite side of the NBBO changes (up to the order's limit price). The proposed rule change has no impact on how the System handles order and bulk messages subject to single or multiple price adjust; it rather more accurately describes this process. The proposed rule change also amends this provision to reflect that a Price Adjust bulk message may be re-priced upon entry due to the presence of opposite side M Capacity interest (rather than rejected in accordance with current functionality).

With respect to multiple price adjust functionality, the proposed rule change clarifies that the price at which the System reprices an order is the ranked and displayed price (rather than or), which is consistent with the remainder of paragraph (b). Price Adjust orders are always ranked and displayed at the same price. Additionally, the proposed rule change deletes the concept of the new price locking a new Protected Quotation, as the new price will always be one minimum price variation away to be consistent with linkage rules. Finally, the proposed rule change deletes the concept of repricing a Price Adjust order based on the presence of an AON order. As set forth in Rule 5.32(b)(1), if an incoming order would lock the price of an AON resting on the book, the System reprices the AON rather than the incoming order. Therefore, if the AON is no longer in the book, there would be no reason to reprice the other order, making the reference to AON in subparagraph (2) regarding repricing is unnecessary.

Finally, the proposed rule change enhances the bulk message fat finger check set forth in Rule 5.34(a)(5). In accordance with the fat finger check, the System cancels or rejects any bulk message bid (offer) above (below) the NOB [sic] (NBB) by more than a specified amount determined by the Exchange.[15] The proposed rule change indicates that the Exchange may also determine a minimum and maximum dollar value for the bulk message fat

[9] The Exchange notes that pursuant to Rule 5.5(c), only appointed Market-Makers may submit such orders and bulk messages through a bulk port.

[10] This is how these orders and messages are currently handled pursuant to Rule 5.32(b)(1)(A)(i).

[11] This is how these orders and messages are currently handled pursuant to Rule 5.32(b)(1)(A)(ii).

[12] The proposed rule change also clarifies in Rule 5.32(c)(6) that it applies if the incoming order or bulk message would execute against or lock resting M-Capacity interest. It is possible a Cancel Back Book Only order or bulk message may otherwise not execute against resting M-Capacity interest but would instead lock that interest if it rested in the book, so the System would reject that order or bulk message to prevent the dissemination of a locked market.

[13] The Exchange notes that a change in the BBO would include a change in M-Capacity interest resting at the top of the Book that caused a Book Only bulk message or order to have its price adjusted.

[14] The proposed rule change also moves the latter part of current subparagraph (2) regarding the priority of re-ranked and re-displayed Price Adjust orders to proposed subparagraph (3).

[15] This check does not apply to bulk messages submitted prior to the conclusion of the opening process or when no NBBO is available.

finger check.[16] The Exchange believes Market-Makers may be willing to accept an execution at a price beyond the NBBO at the time of order entry, but not too far away. The purpose of the fat finger check is intended to reject bulk message bids and offers that on their face are likely to be entered at erroneous prices and thus prevent potentially erroneous executions. The proposed rule change to permit the Exchange to set a minimum and maximum value will provide the Exchange with the opportunity to set a meaningful buffer that is not ''too close'' to the NBBO (in other words, a de minimis buffer) but not ''too far'' from the NBBO (in other words, a buffer that is more likely to accept erroneously priced bulk messages). The proposed rule change also permits the Exchange to set the relevant amounts for the bulk message fat finger check on a class-by-class basis. Option classes have different characteristics and trading models, and the proposed flexibility will permit the Exchange to apply different parameters to address those differences.

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 proposed rule change to enhance the Price Adjust process to adjust the price of Book Only orders and bulk messages submitted by Market-Makers through bulk ports will remove impediments to and perfect the mechanism of a free and open market. Market-Makers that have elected to have their bulk port interest subject to the Price Adjust process have indicated their desire to have the prices of that interest adjusted rather than have the System reject that interest. The proposed rule change is consistent with that election and will cause such interest to be repriced rather than rejected in a situation—when it would otherwise execute or lock against other M-Capacity interest—in addition to locking an away market. Therefore, the proposed rule change will permit additional Market-Maker interest to enter the book rather than be rejected. This additional liquidity may increase execution opportunities and tighten spreads, which ultimately benefits all investors.

The Exchange also believes the proposed rule change to codify that bulk message bids and offers may only be subject to single price adjust will benefit investors by adding transparency to the Rules. The Exchange understands that Market-Makers' automated quote streaming systems review their resting interest when the markets change and update as appropriate in accordance with their business and risk models. Therefore, the Exchange does not believe it is necessary for it also to review resting Market-Maker interest continuously and reprice as the market changes.

In addition, the Exchange believes the proposed change to the bulk message fat finger check will protect investors and the public interest as the check will continue to mitigate potential risks associated with Market-Makers submitting bulk message bids and offers at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, which may likely have resulted from human or operational error. The proposed enhancement that the Exchange will apply a minimum and maximum to the fat finger check will permit the Exchange to apply the fat finger check to bulk messages in a more meaningful way. The Exchange believes class flexibility is appropriate to permit the Exchange to apply reasonable buffers to classes, which may exhibit different trading characteristics and have different market models. The Exchange has other price checks and risk controls that permit it to set a minimum and maximum, as well as apply parameters on a class basis.[20]

The proposed nonsubstantive and clarifying changes will protect investors by adding transparency to the Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed changes will apply in the same manner to all Book Only orders and bulk messages submitted through a bulk port. The proposed rule change to codify that bulk messages will only be subject to single price adjust is appropriate given that Market-Makers' automated quote streaming systems review their resting interest when the markets change and update as appropriate in accordance with their business and risk models. Therefore, the Exchange does not believe it is necessary for it also to review resting Market-Maker interest continuously and reprice as the market changes. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as the proposed rule change applies to functionality that applies to incoming interest that may only rest or execute on the Exchange's book.

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:

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 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6) [22] thereunder. At any time within 60 days

[16] The proposed rule change also makes a nonsubstantive change to say the System cancels or rejects any bulk message bid (offer) more than a buffer amount above (below) the NBO (NBB) to align the language with other rules.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] *See, e.g.,* Rule 5.34(a)(2) (market order NBBO width protection).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

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–2021–042 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–2021–042. 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–2021–042 and should be submitted on or before August 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–16456 Filed 8–2–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, August 5, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov*.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: July 29, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–16555 Filed 7–30–21; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before September 2, 2021.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The *Coronavirus Aid, Relief, and Economic Security Act,* (CARES Act) Public Law 116–136 (April 27, 2020) authorized SBA to provide an Advance of up to $10,000 to applicants who applied for an economic injury disaster loan (EIDL) in response to the COVID–19 pandemic. On December 27, 2020, SBA received additional funds under the Economic Aid to Hard-Hit Small Businesses,

[23] 17 CFR 200.30–3(a)(12).

Nonprofits, and Venues Act, (Economic Aid Act), Public Law 116–260,Div. N, Title III, Sec. 323 (December 27, 2020), to provide additional Advances subject to certain conditions. Specifically, Section 331 of the Economic Aid Act requires SBA to provide Targeted EIDL Advances (Targeted EIDL Advance) to certain entities that previously received an EIDL Advance of less than $10,000; entities that previously applied for a COVID–EIDL, but did not receive an EIDL Advance because there were no funds available; and to new COVID–EIDL applicants, subject to the availability of funds. Eligible entities must be located in a low-income community, must have 300 or fewer employees, must have economic losses of greater than 30 percent, and must meet all other eligibility requirements applicable to EIDLs.

This information collection, SBA Form 3514 was created to to collect the information necessary to implement the Targeted EIDL Advance authority. The information is collected from applicants (small businesses and nonprofits) that meet the eligibility criteria, described above, to apply for a Targeted EIDL Advance. SBA's Office of Capital Access uses the information in determining whether to approve or disapprove the application.

Because of the urgent need to provide the additional financial assistance authorized by the Economic Aid Act, on January 15, 2021, SBA requested and received emergency approval under 5 CFR 1320.13 to use Form 3514. That approval, which included a waiver of the 60-day and 30-day public comment notices required by the Paperwork Reduction Act, expires on July 31, 2021. SBA published the 60-day notice on February 23, 2021, at 86 FR 11041; no comments were received.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control No.: 3245–0419.

Title: Application for COVID–19 Targeted Advance.

Description of Respondents: Small Businesses and Non-Profits.

Estimated Number of Respondents: SBA Form 3514.

Estimated Number of Respondents: 8,625,250.

Estimated Annual Responses: 8,625,250.

Estimated Annual Hour Burden: 4,312,625.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–16451 Filed 8–2–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11483]

Notice of Public Meeting in Preparation for International Maritime Organization Meeting

The Department of State will conduct a public meeting at 10:00 a.m. on Monday, August 23, 2021, by way of teleconference. Members of the public may participate up to the capacity of the teleconference phone line, which will handle 500 participants. To access the teleconference line, participants should call (202) 475–4000 and use Participant Code: 138 541 34#.

The primary purpose of the meeting is to prepare for the seventh session of the International Maritime Organization's (IMO) Sub-Committee on Carriage of Cargoes and Containers (CCC) to be held remotely from Monday, September 6, 2021 to Friday, September 10, 2021.

The agenda items to be considered at the public meeting include the items to be considered at the IMO CCC meeting, which include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Amendments to the IGF Code and development of guidelines for low-flashpoint fuels
—Amendments to the IGC and IGF Codes to include high manganese austenitic steel and related guidance for approving alternative metallic material for cryogenic service
—Amendments to the IMSBC Code and supplements
—Amendments to the IMDG Code and supplements
—Amendments to the International Code for the Safe Carriage of Grain in Bulk (resolution MSC.23 (59)) to include a new class of loading conditions for special compartments
—Revision of the Revised recommendations for entering enclosed spaces aboard ships (resolution A.1050 (27))
—Consideration of reports of incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas
—Revision of the Inspection programmes for cargo transport units carrying dangerous goods (MSC.1/Circ.1442, as amended by MSC.1/Circ.1521)
—Unified interpretation of provisions of IMO safety, security, and environment-related conventions
—Biennial status report and provisional agenda for CCC 8
—Election of Chair and Vice-Chair for 2022
—Any other business
—Report to the Committees

Please note: The Sub-committee may, on short notice, adjust the CCC 7 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP and those in attendance at the meeting.

Those who plan to participate may contact the meeting coordinator, Dr. Amy Parker, by email at *Amy.M.Parker@uscg.mil,* by phone at (202) 372–1423, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593–7509. Members of the public needing reasonable accommodation should advise Dr. Parker not later than August 18, 2021. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

Authority: 5 U.S.C. 551 *et seq.* and 22 U.S.C. 2656.

Emily A. Rose,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2021–16458 Filed 8–2–21; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 11485]

Notice of Department of State Sanctions Actions on Hong Kong Normalization

SUMMARY: The Secretary of State has imposed sanctions on seven individuals pursuant to Executive Order 13936, the President's Executive Order on Hong Kong Normalization.

DATES: The Secretary of State's determination regarding the seven individuals identified in the **SUPPLEMENTARY INFORMATION** section was effective on July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Taylor Ruggles, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647–7677, email: *RugglesTV@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 4 of Executive Order (E.O.) 13936, the Secretary of State, in consultation with the Secretary of the Treasury, or the Secretary of the Treasury, in consultation with the Secretary of State, may authorize the imposition of sanctions blocking all property or interests in property that are in the United States, that hereafter come within the United States, or that are in or hereafter come within the possession or control of any United States person, of any foreign person upon determining that the person met any criteria set forth in section 4 of E.O. 13936.

The Secretary of State has determined, pursuant to section 4(a)(iii)(A) of E.O. 13936, that Chen Dong, Yang Jianping, Qiu Hong, Lu Xinning, Tan Tieniu, He Jing, and Yin Zonghua are or have been leaders or officials of an entity, including any government entity, that has engaged in, or whose members have engaged in, actions or policies that threaten the peace, security, stability, or autonomy of Hong Kong. These individuals have been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property subject to U.S. jurisdiction of these individuals are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

Peter Haas,

Acting Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2021–16530 Filed 8–2–21; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Record of Decision for the Environmental Impact Statement (EIS) for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York; Correction

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

ACTION: Notice of Availability for Record of Decision; correction.

SUMMARY: This notice corrects the Notice of Availability (NOA) for the Record of Decision for the Final Environmental Impact Statement (EIS) for the proposed LaGuardia Airport (LGA) Access Improvement Project. The original NOA was published in the **Federal Register** on July 23, 2021 and included an incorrect statement.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Brooks, Environmental Program Manager, Eastern Regional Office, AEA–610, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, NY 11434. Telephone: 718–553–2511.

SUPPLEMENTARY INFORMATION:

Correction

In the NOA FR Doc. 2021–15704, on page 39098 in the issue of July 23, 2021, make the following correction in the Supplementary Information section. On page 39098, the first paragraph following the bulleted list describing the determination in the Record of Decision is updated as follows.

The following text is removed from the NOA:

This ROD also presents the decision of the NPS, as cooperating agency in the Final EIS, to approve a partial conversion of 0.5 acres of parklands subject to the Land and Water Conservation Fund (LWCF) Act in Flushing Meadows-Corona Park, as well as to approve a Temporary Non-Conforming Use (TNCU) of 1.2 acres of parkland subject to the LWCF Act.

It is replaced with the following text:

The Port Authority will be responsible for completion of all necessary approvals related to the conversion of property under the Land and Water Conservation Fund (LWCF) Act, including acquisition and development of the replacement property once the Port Authority identifies suitable replacement property that meets LWCF conversion requirements. The Port Authority will develop replacement property in coordination with New York City Department of Parks and Recreation and New York State Department of Parks, Recreation and Historic Preservation, subject to the approval of the National Park Service.

Issued in Jamaica, New York, July 29, 2021.

Patricia Henn,

Manager, Planning and Programming Branch, Airports Division, Eastern Region.

[FR Doc. 2021–16482 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0014]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 18 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on July 30, 2021. The exemptions expire on July 30, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0014, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 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.

B. Privacy Act

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On June 23, 2021, FMCSA published a notice announcing receipt of applications from 18 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (86 FR 33013). The public comment period

ended on July 23, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on current medical information and literature, and the 2008 Evidence Report, ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.'' The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System, for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce, the Agency believes the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must report any crashes or accidents as defined in § 390.5; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 18 exemption applications, FMCSA exempts the following drivers from the hearing standard, § 391.41(b)(11), subject to the requirements cited above:

Chris Anderson (TX)
Milca Ceballos (TX)
Eleazar Contreras (IL)
Mark Howard (NY)
Michael Hoyt (WA)
Pete Kujawa (WI)
Richard Kujawa (WI)
Tia Matthews (NV)
Jess McMahon (IA)
John Mark Mitchell (CA)
Joshua Moore (TX)
Richard Palfrey (FL)
Jonas Pittman (NC)
Leroy Raine (AL)
Troy Rolland (TX)
Shannon Schoenecker (KS)
Brandon Tucker (PA)
Jeremy Westmoreland (SC)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–16529 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2021–0025]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt four individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on July 30, 2021. The exemptions expire on July 30, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical

Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0025, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 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.

B. Privacy Act

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On June 24, 2021, FMCSA published a notice announcing receipt of applications from four individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (86 FR 33470). The public comment period ended on July 26, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel. The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. A summary of each applicant's seizure history was discussed in the June 24, 2021, **Federal Register** notice (86 FR 33470) and will not be repeated in this notice.

These four applicants have been seizure-free over a range of 15 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the four exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:
Charles Anthony (ND)

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

Jeffrey Douglass (ME)
Phillip Halfman (WI)
Christopher Nonnenkamp (MO)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–16527 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2015–0115; FMCSA–2015–0323; FMCSA–2016–0313; FMCSA–2016–0315; FMCSA–2018–0056; FMCSA–2018–0057; FMCSA–2019–0027; FMCSA–2019–0029]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 11 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2008–0355, FMCSA–2010–0203, FMCSA–2015–0115, FMCSA–2015–0323, FMCSA–2016–0313, FMCSA–2016–0315, FMCSA–2018–0056, FMCSA–2018–0057, FMCSA–2019–0027, or FMCSA–2019–0029 in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 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.

B. Privacy Act

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On June 9, 2021, FMCSA published a notice announcing its decision to renew exemptions for 11 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (86 FR 30675). The public comment period ended on July 9, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based on its evaluation of the 11 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of June and are discussed below. As of June 10, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 10 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 30675):

John D. Archer (MO)
Brian Brown (PA)
Richard Conway Jr. (MO)
Daniel Gast (KS)
Stephen Harmon (WV)
Denton Hineline (WA)
Steve Hunsaker (ID)
Bryan R. Jones (PA)
Jason Lewis (CA)
Elvin Paul Morgan (CA)

The drivers were included in docket number FMCSA–2008–0355, FMCSA–2010–0203, FMCSA–2015–0115, FMCSA–2015–0323, FMCSA–2016–0313, FMCSA–2016–0315, FMCSA–2018–0056, FMCSA–2018–0057, or FMCSA–2019–0027. Their exemptions were applicable as of June 10, 2021 and will expire on June 10, 2023.

As of June 18, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Alan Finlayson (AL) has satisfied the renewal conditions for obtaining an exemption from the

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers.

This driver was included in docket number FMCSA–2019–0029. The exemption was applicable as of June 18, 2021 and will expire on June 18, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–16528 Filed 8–2–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0123; FMCSA–2013–0124; FMCSA–2013–0125; FMCSA–2014–0102; FMCSA–2014–0104; FMCSA–2014–0106; FMCSA–2014–0107; FMCSA–2014–0383; FMCSA–2015–0326; FMCSA–2017–0058; FMCSA–2018–0137; FMCSA–2018–0138]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 28 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 17, 2021. The exemptions expire on June 17, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2013–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0383, FMCSA–2015–0326, FMCSA–2017–0058, FMCSA–2018–0137, or FMCSA–2018–0138 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 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.

B. Privacy Act

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On June 17, 2021, FMCSA published a notice announcing its decision to renew exemptions for 28 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (86 FR 32308). The public comment period ended on July 19, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 28 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41 (b)(11).

As of June 17, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 28 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (86 FR 32308):

Selwyn Abrahamson (MN)
Kevin Ballard (TX)
Robert M. Benner (OH)
Courtney Bertling (OR)
Tonya Bland (PA)
Conley Bowling (KY)
Shawn Carico (TN)
Thomas M. Carr (PA)
Jason M. Clark (MO)
Herbert Crowe (MO)
Byron Davis (TX)
Mark Dickson (TX)
Jacob Gadreault (MA)
Timothy Gallagher (PA)
David Garland (ME)
Lane Grover (IN)
Gregory Hill (MS)
Thomas Lipyanic (FL)
Billie Jo Martinez (TX)
Jonathan A. Muhm (CA)
Charles Pitt (AL)
David Shores (NC)
Sandy Sloat (TX)
Kirk Soneson (OH)
James Thomason (MO)
Ramarr Wadley (PA)
Jeffrey Webber (OK)
Richard Whittaker (FL)

The drivers were included in docket number FMCSA–2013–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2014–0102, FMCSA–2014–

0104, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0383, FMCSA–2015–0326, FMCSA–2017–0058, FMCSA–2018–0137, or FMCSA–2018–0138. Their exemptions were applicable as of June 17, 2021 and will expire on June 17, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–16526 Filed 8–2–21; 8:45 am]

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