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Title 3—

The President

Proclamation 10322 of December 9, 2021

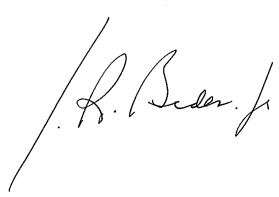
Amending Proclamation 10320, Death of Robert J. Dole

By the President of the United States of America

A Proclamation

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, and in order to extend the display of the flag at half-staff as a mark of respect for Robert Joseph Dole, it is hereby ordered that Proclamation 10320 of December 5, 2021, is amended by deleting in the first sentence the words ''until sunset on December 9, 2021'' and inserting in their place the words ''through Saturday, December 11.''

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–27379
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Executive Order 14058 of December 13, 2021

Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* Our Government must recommit to being ''of the people, by the people, [and] for the people'' in order to solve the complex 21st century challenges our Nation faces. Government must be held accountable for designing and delivering services with a focus on the actual experience of the people whom it is meant to serve. Government must also work to deliver services more equitably and effectively, especially for those who have been historically underserved. Strengthening the democratic process requires providing direct lines of feedback and mechanisms for engaging the American people in the design and improvement of Federal Government programs, processes, and services.

As the United States faces critical challenges, including recovering from a global pandemic, promoting prosperity and economic growth, advancing equity, and tackling the climate crisis, the needs of the people of the United States, informed by, in particular, an understanding of how they experience Government, should drive priorities for service delivery improvements. In recent years, the annual paperwork burden imposed by executive departments and agencies (agencies) on the public has been in excess of 9 billion hours. That number is too high. Agencies must work with the Congress; the private sector and nonprofit organizations; State, local, Tribal, and territorial governments; and other partners to design experiences with the Federal Government that effectively reduce administrative burdens, simplify both public-facing and internal processes to improve efficiency, and empower the Federal workforce to solve problems.

The Federal Government must design and deliver services in a manner that people of all abilities can navigate. We must use technology to modernize Government and implement services that are simple to use, accessible, equitable, protective, transparent, and responsive for all people of the United States. When a disaster survivor, single parent, immigrant, small business owner, or veteran waits months for the Government to process benefits to which they are entitled, that lost time is a significant cost not only for that individual, but in the aggregate, for our Nation as a whole. This lost time operates as a kind of tax—a ''time tax''—and it imposes a serious burden on our people as they interact with the Government. Improving Government services should also make our Government more efficient and effective overall.

Every interaction between the Federal Government and the public, whether it involves renewing a passport or calling for a status update on a farm loan application, should be seen as an opportunity for the Government to save an individual's time (and thus reduce ''time taxes'') and to deliver the level of service that the public expects and deserves. By demonstrating that its processes are effective and efficient, in addition to being fair, protective of privacy interests, and transparent, the Federal Government can build public trust. Further, the Federal Government's management of its customer experience and service delivery should be driven fundamentally by the

voice of the customer through human-centered design methodologies; empirical customer research; an understanding of behavioral science and user testing, especially for digital services; and other mechanisms of engagement.

Executive Order 12862 of September 11, 1993 (Setting Customer Service Standards), required agencies that provide significant services directly to the public to identify and gather feedback from customers; establish service standards and measure performance against those standards; and benchmark customer service performance against the best customer experience provided in the private sector. Executive Order 13571 of April 27, 2011 (Streamlining Service Delivery and Improving Customer Service), further required agencies to develop a ''Customer Service Plan . . . to address how the agency will provide services in a manner that seeks to streamline service delivery and improve the experience of its customers.'' Executive Order 13707 of September 15, 2015 (Using Behavioral Science Insights To Better Serve the American People), called for the use of empirical findings in behavioral science fields to deliver better results for the American people, including by identifying ''opportunities to help qualifying individuals, families, communities, and businesses access public programs and benefits.'' And Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), established the policy of the Federal Government to ''pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.'' Consistent with these aims, agencies have begun assessing whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups. These previous actions have laid an important foundation for the policies and procedures set forth in this order. However, more is required to establish the sustained system for Federal Government accountability and performance necessary to drive an ongoing focus on improved delivery and results for the people of the United States.

Sec. 2. *Policy.* It is the policy of the United States that, in a Government of the people, by the people, and for the people, improving service delivery and customer experience should be fundamental priorities. The Government's performance must be measured empirically and by on-the-ground results for the people of the United States, especially for their experiences with services delivered. The means of Government—such as its budget, policy, financial management, procurement, and human resources practices—must work to achieve those ends. Agencies should continually improve their understanding of their customers, reduce administrative hurdles and paperwork burdens to minimize ''time taxes,'' enhance transparency, create greater efficiencies across Government, and redesign compliance-oriented processes to improve customer experience and more directly meet the needs of the people of the United States. Consistent with the purpose described in section 1 of this order, agencies' efforts to improve customer experience should include systematically identifying and resolving the root causes of customer experience challenges, regardless of whether the source of such challenges is statutory, regulatory, budgetary, technological, or process-based. Furthermore, to engender public trust, agencies must ensure that their efforts appropriately maintain or enhance protections afforded under law and policy, including those related to civil rights, civil liberties, privacy, confidentiality, and information security.

Sec. 3. *Definitions.* For purposes of this order:

(a) The term ''customer'' means any individual, business, or organization (such as a grantee or State, local, or Tribal entity) that interacts with an agency or program, either directly or through a federally-funded program administered by a contractor, nonprofit, or other Federal entity.

(b) The term ''customer experience'' means the public's perceptions of and overall satisfaction with interactions with an agency, product, or service.

(c) The term ''customer life experience'' means each important point in a person's life at which that person interacts with one or more entities of Government.

(d) The term ''equity'' means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

(e) The term ''High Impact Service Provider'' (HISP) means a Federal entity, as designated by the Director of the Office of Management and Budget (OMB), that provides or funds customer-facing services, including Federal services administered at the State or local level, that have a high impact on the public, whether because of a large customer base or a critical effect on those served.

(f) The term ''human-centered design'' means an interdisciplinary methodology of putting people, including those who will use or be impacted by what one creates, at the center of any process to solve challenging problems.

(g) The term ''service delivery'' means actions by the Federal Government related to providing a benefit or service to a customer of a Federal Government entity. Such actions pertain to all points of the Government-to-customer delivery process, including when a customer applies for a benefit or loan, receives a service such as health care or small business counseling, requests a document such as a passport or Social Security card, files taxes or declares goods, uses resources such as a park or historical site, or seeks information such as notices about public health or consumer protection.

Sec. 4. *Agency Actions to Improve Customer Experience.* (a) The Secretary of State shall design and deliver a new online passport renewal experience that does not require any physical documents to be mailed.

(b) The Secretary of the Treasury shall design and deliver new online tools and services to ease the payment of taxes and provide the option to schedule customer support telephone call-backs. The Secretary of the Treasury should consider whether such tools and services might include expanded automatic direct deposit refunds based on prior year tax returns, tax credit eligibility tools, and expanded electronic filing options.

(c) The Secretary of the Interior shall redesign the website of the Fish and Wildlife Service, FWS.gov, in compliance with the 21st Century Integrated Digital Experience Act (Public Law 115–336), and shall support a centralized, modernized electronic permitting system to accept and process applications for permits. Such a system might include special use permits for the National Wildlife Refuge System and for at least five high-volume permit application forms required for individuals and businesses who import or export fish, wildlife, and plants and their products internationally.

(d) The Secretary of Agriculture shall:

(i) test the use of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits for online purchasing;

(ii) identify opportunities to reduce individuals' and families' burdens by simplifying enrollment and recertification for nutrition assistance programs such as the Supplemental Nutrition Assistance Program (SNAP) and the WIC, including expanding the use of direct certification; and

(iii) design and implement a simplified direct farm loan application process.

(e) The Secretary of Labor shall:

(i) update existing rules and policies, consistent with applicable law and to the extent practicable, to allow individuals entitled to medical treatment

under their workers' compensation plans to conduct their routine medical treatment appointments using telehealth platforms; and

(ii) update rules, policies, and procedures to eliminate, consistent with applicable law and to the extent practicable, requirements for workers' compensation claimants to submit physical documents, but to retain the option for physical submission for claimants who cannot otherwise submit them.

(f) The Secretary of Health and Human Services shall:

(i) continue to design and deliver new, personalized online tools and expanded customer support options for Medicare enrollees;

(ii) strengthen requirements for maternal health quality measurement, including measuring perinatal quality and patient care experiences, and evaluating the measurements by race and ethnicity to aim to better identify inequities in maternal health care delivery and outcomes;

(iii) to the maximum extent permitted by law, support coordination between benefit programs to ensure applicants and beneficiaries in one program are automatically enrolled in other programs for which they are eligible;

(iv) to the maximum extent permitted by law, support streamlining State enrollment and renewal processes and removing barriers, including by eliminating face-to-face interview requirements and requiring prepopulated electronic renewal forms, to ensure eligible individuals are automatically enrolled in and retain access to critical benefit programs;

(v) develop guidance for entities regulated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) on providing telehealth in compliance with HIPAA rules, to improve patient experience and convenience following the end of the COVID–19 public health emergency; and

(vi) test methods to automate patient access to electronic prenatal, birth, and postpartum health records (including lab results, genetic tests, ultrasound images, and clinical notes) to improve patient experiences in maternity care, health outcomes, and equity.

(g) The Secretary of Education shall:

(i) consider providing eligible recipients of student aid under Title IV of the Higher Education Act of 1965 (Public Law 89–329), as amended, with the option to receive information about certain benefits and services for which they may qualify; and

(ii) design and deliver a repayment portal capability on StudentAid.gov for Direct Loan borrowers.

(h) The Secretary of Veterans Affairs shall:

(i) provide digital services through a single, integrated, and equitable digital platform on VA.gov and the VA mobile app; and

(ii) provide on-demand customer support through the channels that work best for customers, including personalized online chat with a virtual or live agent.

(i) The Secretary of Homeland Security shall:

(i) test the use of innovative technologies at airport security checkpoints to reduce passenger wait times;

(ii) provide new opportunities for customers to connect with the Transportation Security Administration, including as appropriate, online chat, improved communication during additional screenings, and additional mechanisms to provide customer feedback;

(iii) design and deliver a streamlined, online disaster assistance application; and

(iv) work with States to proactively update existing rules and policies on supporting documentation needed for disaster assistance processes to reduce burden and increase accessibility.

(j) The Administrator of the Small Business Administration shall:

(i) establish baseline experience measures for key small business application processes in areas such as loans, grants, and certifications; and

(ii) design and deliver a streamlined online disaster assistance application experience.

(k) The Commissioner of Social Security shall:

(i) within 120 days of the date of this order, provide a report to the Director of OMB that analyzes all services of the Social Security Administration that currently require original or physical documentation or in-person appearance as an element of identity or evidence authentication, and that identifies potential opportunities for policy reforms that can support modernized customer experiences while ensuring original or physical documentation requirements remain where there is a statutory or strong policy rationale;

(ii) develop a mobile-accessible, online process so that any individual applying for or receiving services from the Social Security Administration can upload forms, documentation, evidence, or correspondence associated with their transaction without the need for service-specific tools or traveling to a field office;

(iii) consistent with applicable law and to the extent practicable, maintain a public policy of technology neutrality with respect to acceptable forms of electronic signatures;

(iv) consistent with applicable law and to the extent practicable, revise any necessary regulations, forms, instructions, or other sources of guidance (to include the Program Operations Manual System of the Social Security Administration) to remove requirements that members of the public provide physical signatures; and

(v) to the maximum extent permitted by law, support applicants and beneficiaries to identify other benefits for which they may be eligible and integrate Social Security Administration data and processes with those of other Federal and State entities whenever possible.

(l) The Administrator of General Services shall:

(i) develop a roadmap for a redesigned USA.gov website that aims to serve as a centralized, digital ''Federal Front Door'' from which customers may navigate to all Government benefits, services, and programs, and features streamlined content, processes, and technologies that use human-centered design to meet customer needs, including consolidating content currently appearing on Benefits.gov, Grants.gov, and other appropriate websites; and

(ii) dedicate multi-disciplinary design and development teams to support priority projects of HISPs that will be selected and funded each fiscal year in consultation with the Director of OMB.

(m) The Administrator of the United States Agency for International Development (USAID) shall review and revise, as appropriate, regulations, forms, instructions, or other sources of guidance relating to the application for grants and cooperative agreements in countries in which USAID works to ensure that such policies are clear and intelligible, do not contain unjustified administrative burdens or excessive paperwork requirements, and do not place undue burdens on local organizations and underserved communities.

(n) Joint Agency Actions:

(i) The Secretary of Veterans Affairs and the Administrator of General Services shall collaborate to provide seamless integration of Login.gov accounts to allow customers to access VA.gov, the VA mobile application, and other customer-facing digital products and to eliminate outdated and duplicate customer sign-in options.

(ii) The Secretary of the Treasury, the Secretary of Defense, the Secretary of Education, and the Director of the Office of Personnel Management

shall collaborate to enable a more streamlined Public Service Loan Forgiveness process for eligible borrowers, including those who serve in the United States Armed Forces or as civil servants, or who work for eligible nonprofit organizations.

(iii) The Director of OMB, including through the Administrator of the United States Digital Service, shall collaborate across the Federal Government with multiple agencies and their respective customers in order to conduct human-centered design research and document customer experience challenges related to accessing grant programs to which Tribal governments are entitled, and shall propose ways to streamline processes and reduce administrative burdens on Tribal government customers.

(iv) The Director of OMB, through the Administrator of the United States Digital Service; the Administrator of General Services; and the Postmaster General are encouraged to collaborate on ways to update mailing address records across Government so that members of the public may change their respective mailing addresses for purposes of all Government services only once, through the United States Postal Service.

Sec. 5. *Government-wide Actions to Improve Customer Experience.* Customers often navigate services across multiple agencies in specific moments of need, such as when they are seeking financing for their businesses or experiencing food insecurity. In such situations, relevant agencies should coordinate their service delivery to achieve an integrated experience that meets customer needs through the exchange of data with appropriate privacy protections.

Such coordination may include providing States that administer elements of Federal services with guidance and flexibilities with respect to the elements of Federal programs they administer. Such coordination would allow both Federal and State government entities to maximize their respective expertise and improve efficiency. To further the policy set forth in this section:

(a) Within 90 days of the date of this order, and on a regular basis thereafter, the Deputy Director for Management of OMB and other members of the President's Management Council (PMC) shall work with the Assistant to the President and Chief of Staff, the Assistant to the President for Domestic Policy, and the Assistant to the President for Economic Policy to select a limited number of customer life experiences to prioritize for Government-wide action to improve customer experience.

(b) The Deputy Director for Management of OMB and other members of the PMC, in consultation with the Assistant to the President for Domestic Policy, the Assistant to the President for Economic Policy, and relevant interagency teams coordinated by OMB, shall organize appropriate leadership structures to assess customer life experiences selected pursuant to subsection (a) of this section, work to develop measurable improvements for such customer life experiences that involve multiple agencies, develop prospective plans for rigorously testing that use appropriate empirical methods on which approaches work best, and share lessons learned across the Federal Government.

(c) Within 180 days of the date of this order and every 6 months thereafter, the Deputy Director for Management of OMB and other members of the PMC, through the Deputy Director for Management of OMB, shall report to the Assistant to the President and Chief of Staff on the status of the actions described in subsection (b) of this section.

(d) The Director of OMB shall work with the head of each relevant agency to help resolve issues related to overlapping responsibilities among agencies, work to address barriers to serving customers across multiple agencies, and coordinate activities to improve customer experience or service delivery when primary responsibility among multiple agencies is unclear.

(e) Within 120 days of the date of this order, the Administrator of the Office of Electronic Government and the Administrator of the Office of

Information and Regulatory Affairs within OMB, in consultation with relevant interagency councils (including the Chief Information Officers Council, the Federal Privacy Council, the Chief Data Officer Council, the Evaluation Officer Council, and the Interagency Council on Statistical Policy), shall coordinate their current, respective efforts to develop guidance for agencies, ensuring that such guidance incorporates opportunities to:

(i) improve the efficiency and effectiveness of data sharing and support processes among agencies and with State and local governments; and

(ii) streamline the process for agencies to provide services to State and local governments, consistent with applicable law.

(f) Within 120 days of the date of this order, the Administrator of the Office of Information and Regulatory Affairs shall provide guidance for agencies on:

(i) identifying specific steps to reduce information collection burdens on customers to enhance access across agencies; and

(ii) clarifying and updating recommendations and flexibilities under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), including to facilitate stakeholder engagement and feedback processes to support the implementation of this order.

(g) Within 180 days of the date of this order, the Administrator of General Services shall submit to the Director of OMB a roadmap for the development of prioritized common services and standards (such as the United States Web Design System or systems for login and identity management), platforms (such as notification capabilities), and digital products (such as USA.gov) that support increased efficiency, integration, and improved service delivery of designated customer life experiences.

Sec. 6. *Ongoing Accountability for Federal Service Delivery.* (a) The Director of OMB shall designate as HISPs those Federal entities that provide or fund customer-facing services, including Federal services administered at the State or local level, that have a high impact on the public, whether because of a large customer base or a critical effect on those served. The Director of OMB shall maintain a list of designated HISPS and may update this list at any time.

(b) The Secretary of State, the Secretary of the Treasury, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Education, the Secretary of Veterans Affairs, the Secretary of Homeland Security, the Administrator of the Small Business Administration, the Commissioner of Social Security, the Administrator of General Services, the Administrator of the United States Agency for International Development, and the Director of the Office of Personnel Management shall each submit to the Director of OMB a report including an assessment of the improvements needed in each agency's customer experience management and service design capabilities in light of this order, to be prioritized within each agency's respective available and budgeted resources.

(c) The head of each HISP shall, in consultation with the Deputy Director for Management of OMB, annually designate a limited number of services for prioritized improvement (designated services). Identification of designated services should be based on the moments that matter most to the individuals served, as illustrated through human-centered design and other research, and on those services' public-facing nature, the number of individuals served, the volume of transactions, the total Federal dollars spent, the safety and protection of lives, or the critical nature of the services provided in the lives of the individuals they serve.

(d) The Deputy Director for Management of OMB shall issue guidance for HISPs that outlines an annual process for assessing their capacity to manage customer experience, assessing their performance of designated services through meaningful measures from the perspective of the public and planning for the improvement of the customer experience. Assessments

should include, as appropriate, the identification of customer experience challenges experienced by customers of the HISP in the form of administrative burdens or other barriers, informed by experiential data (including, as appropriate, through randomized controlled trials or other rigorous program evaluation); ethnographic research; feedback from public engagement; human-centered design methodologies such as journey mapping; operational and administrative data analysis; direct observations; examination, from a customer perspective, of how to navigate the agency's service offerings, apply for a benefit, or comply with a requirement of the agency; observations of customer interaction with the agency's website or application processes and tools; or observations of customer support service delivery such as activities at call centers. Informed by findings from these assessments, plans for improvement should include, as appropriate, actions such as conducting outreach to the public about the agency's programs and other Federal programs for which those served by the agency may be eligible, providing assistance to members of the public enrolling in the agency's programs and other Federal programs, streamlining and improving accessibility of forms and digital experiences, eliminating unnecessary administrative burdens on customers, ensuring the accessibility of services for customers with disabilities and those with limited English proficiency, developing targeted actions to advance equity for communities that face inequitable barriers to service access, or engaging in other efforts to coordinate with other agencies to reduce the need for those they serve to interact separately with multiple agencies.

(e) The Director of OMB shall establish a team within OMB to lead and support agency customer experience initiatives as well as such initiatives that reach across agencies, including by facilitating the decision-making processes needed to achieve the objectives of this order; coordinating HISP activities as outlined in this order; and developing strategies for the integration of services and development of products involving multiple agencies as contemplated in this order.

(f) All agencies, whether identified in this section or not, are urged to apply guidance issued pursuant to subsection (d) of this section to improve their service delivery.

Sec. 7. *Additional Agency Actions to Improve Customer Experience.* The heads of agencies shall:

(a) integrate activities to improve customer experience, as appropriate and consistent with applicable law, into their respective:

(i) agency strategic plans developed pursuant to section 306(a) of title 5, United States Code;

(ii) Agency Performance Plans developed pursuant to sections 1115 and 1116 of title 31, United States Code;

(iii) portions of performance plans relating to human and capital resource requirements to achieve performance goals pursuant to section 1115(g) of title 31, United States Code;

(iv) agency priority goals developed pursuant to section 1120 of title 31, United States Code;

(v) selection of items for their respective regulatory agendas and plans pursuant to subsections 4(b) and (c) of Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), as amended;

(vi) individual performance plans for senior executives consistent with section 4312 of title 5, United States Code, and for other senior employees consistent with section 4302 of title 5, United States Code; and

(vii) as permitted by law, any other agency activities, acquisitions, and strategies that the Director of OMB determines to be appropriate to further the implementation of the policy articulated in this order;

(b) direct all of their respective program offices to apply the guidance from OMB's Office of Information and Regulatory Affairs described in section

5(f) of this order, as well as the requirements of the Paperwork Reduction Act related to collections of information, consistently with guidance contained in the Office of Information and Regulatory Affairs Memorandum of July 22, 2016 (Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements), which provides that the Paperwork Reduction Act does not apply to agencies' general solicitations of public views and feedback, certain ratings and rankings of Federal services by members of the public using Government websites, or direct observations of users interacting with digital tools and products;

(c) direct all of their respective program offices to identify opportunities to apply policies, including those set forth in subsections 1(a) and (b) of Executive Order 13707, and to engage in promising practices such as the advance testing of information collections described in the Office of Information and Regulatory Affairs Memorandum of August 9, 2012 (Testing and Simplifying Federal Forms);

(d) identify opportunities, as appropriate and consistent with applicable law, to modify their respective agencies' regulations, internal and public-facing guidance, and policies to include positive and equitable customer experiences and service delivery as part of their respective agencies' missions; issue internal directives or policies on customer experience and service delivery to articulate how their respective agencies' strategies and missions relate to customer experience and service delivery outcomes; and promote coordination within and among their respective agencies concerning those customer life experiences that cut across agency or agency component responsibilities;

(e) improve the digital customer experience for their respective agencies' customers by modernizing agency websites, using human-centered design methodologies, digitizing agency services and forms, modernizing records management, updating network infrastructure and mobility capabilities, and accelerating the use of electronic signatures when aligned with policy priorities, as required by the 21st Century Integrated Digital Experience Act (44 U.S.C. 3501 note); and

(f) identify means by which their respective agencies can improve transparency and accessibility through their compliance with the Plain Writing Act of 2010 (Public Law 111–274) and related requirements and guidance.

Sec. 8. *OMB Guidance.* The Director of OMB shall review and update OMB Government-wide guidance and supporting processes (such as information collection reviews or data sharing approvals) as necessary and applicable, to ensure conformity with this order and to assist agencies in improving their service delivery and customer experience.

Sec. 9. *Independent Agencies.* Independent agencies are strongly encouraged to comply with the provisions of this order.

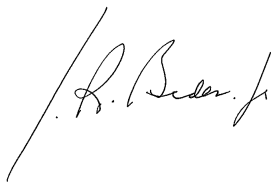
Sec. 10. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
December 13, 2021.

[FR Doc. 2021–27380
Filed 12–15–21; 8:45 am]
Billing code 3395–F2–P

Rules and Regulations

Federal Register
Vol. 86, No. 239
Thursday, December 16, 2021

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1072; Project Identifier MCAI–2021–01248–E; Amendment 39–21870; AD 2021–26–11]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd. & Co KG (RRD) RB211 Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 model turbofan engines. This AD was prompted by reports of single engine events caused by water contamination, which led to corrosion on the fuel pump that resulted in loss of engine thrust. This AD requires replacing the fuel pump as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 3, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 3, 2022.

The FAA must receive comments on this AD by January 31, 2022.

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

- *Federal eRulemaking Portal:* Go to *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 incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email *ADs@easa.europa.eu;* website: *https://www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1072. For the material identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; website: *https://www.rolls-royce.com/contact-us.aspx.*

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1072; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7116; fax: (781) 238–7199; email: *nicholas.j.paine@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0245, dated November 10, 2021 (EASA AD 2021–0245) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition on RRD RB211 Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 model turbofan engines.

This AD was prompted by a report of single engine events that resulted in loss of engine thrust. An investigation by the manufacturer determined that certain engines were exposed to unacceptable levels of water contamination, which caused corrosion on the fuel pump internal components. This corrosion led to debris release and filter blockages in variable stator vane actuator control units, which resulted in the variable stator vane system failing in the closed position. This condition, if not addressed, could result in loss of engine thrust control, in-flight engine shutdown, and reduced control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

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 European Community, the FAA has been notified of the unsafe condition described in the MCAI. The FAA is issuing this AD because the agency evaluated all the relevant information provided by EASA and determined the safe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2021–0245. EASA AD 2021–0245 specifies instructions for replacing certain fuel pumps and identifies certain fuel pumps that are not to be installed on an affected engine. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES.**

Other Related Service Information

The FAA reviewed Rolls-Royce Alert Non-Modification Service Bulletin (NMSB) RB.211–73–AK788, dated November 9, 2021. The NMSB describes procedures for removing and replacing

the fuel pump and identifies the population of affected fuel pumps.

AD Requirements

This AD requires accomplishing the actions specified in EASA AD 2021–0245, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the MCAI.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, EASA AD 2021–0245 will be incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2021–0245 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0245 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0245. Service information required by EASA AD 2021–0245 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1072.

Differences Between This AD and the EASA AD

Where EASA AD 2021–0245 requires compliance from its effective date, this AD requires using the effective date of this AD. This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0245.

Interim Action

The FAA considers this AD to be an interim action. If further action is later identified, the FAA may consider additional rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule. Following occurrences of single engine loss of engine thrust, the manufacturer determined that a subset of RRD RB211 Trent model turbofan engines have been exposed to unacceptable levels of water contamination. This water contamination may cause corrosion on the fuel pump internal components, leading to debris release and filter blockage in variable stator vane actuator control units. These fuel pumps have the highest risk of failure and require removal within 30 days of the effective date of this AD to prevent failure of the variable stator vane system and maintain an acceptable level of safety. The FAA considers failure of a variable stator vane system in the closed position to be an urgent safety issue that requires immediate action to avoid loss of engine thrust or in-flight engine shutdown. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1072; Project Identifier MCAI–2021–01248–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *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 final rule.

Confidential Business Information

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects one engine installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S operators
Remove and replace fuel pump	4.5 work-hours × $85 per hour = $382.50	$133,130	$133,512.50	$133,512.50

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–26–11 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21870; Docket No. FAA–2021–1072; Project Identifier MCAI–2021–01248–E.

(a) Effective Date

This airworthiness directive (AD) is effective January 3, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) RB211 Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7314, Engine Fuel Pump.

(e) Unsafe Condition

This AD was prompted by reports of single engine events caused by water contamination, which led to corrosion on the fuel pump that resulted in loss of engine thrust. The FAA is issuing this AD to prevent failure of variable stator vane system. The unsafe condition, if not addressed, could result in loss of engine thrust control, in-flight engine shutdown, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2021–0245, dated November 10, 2021 (EASA AD 2021–0245).

(h) Exceptions to EASA AD 2021–0245

(1) Where EASA AD 2021–0245 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0245.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7116; fax: (781) 238–7199; email: *nicholas.j.paine@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0245, dated November 10, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0245, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *https://www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on December 9, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27385 Filed 12–14–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0692; Project Identifier MCAI–2020–01585–T; Amendment 39–21845; AD 2021–25–02]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2014–16–16, which applied to all Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes; and AD 2018–19–28, which applied to certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. AD 2014–16–16 required, for certain airplanes, retorquing and replacing the pylon lower link fittings, and for all airplanes, repetitive retorquing of those fittings. AD 2018–19–28 required modification of the attaching parts of the pylon lower link fittings. This AD continues to require those actions, and also requires application of a lower torque value, inspection of certain shear pins and replacement if necessary, and revised compliance times for the modification; as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 20, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 20, 2022.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of September 2, 2014 (79 FR 48018, August 15, 2014).

ADDRESSES: For ANAC material incorporated by reference (IBR) in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* For Embraer service information identified in this final rule, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brazil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* internet *http://www.flyembraer.com.* For Embraer service information identified in this final rule that is applicable to Yaborã Indústria Aeronáutica S.A. Model ERJ 190–100 ECJ airplanes, contact Embraer S.A., Technical Publications Section (PC 560), Rodovia Presidente Dutra, km 134, 12247–004 Distrito Eugênio de Melo—São José dos Campos—SP—Brazil; telephone +55 12 3927–0386; email *distrib@embraer.com.br;* internet *https://www.mytechcare.embraer.com.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0692.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0692; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Krista Greer, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2020–06–02R02, effective November 30, 2020 (ANAC AD 2020–06–02R02) (also referred to as the MCAI), to correct an unsafe condition for certain Yaborã Indústria Aeronáutica S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. Model 190–100 SR airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–16–16, Amendment 39–17940 (79 FR 48018, August 15, 2014) (AD 2014–16–16); and AD 2018–19–28, Amendment 39–19429 (83 FR 48935, September 28, 2018) (AD 2018–19–28). AD 2014–16–16 applied to all Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. AD 2018–19–28 applied to certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on August 24, 2021 (86 FR 47252). The NPRM was prompted by reports of bushing migration, loss of nut torque on the engine pylon lower inboard and outboard link fittings, a loose lower link assembly, and damaged nuts. The existing torque values could cause damage to the nuts, which could lead to loss of the shear pins of the pylon outboard and inboard lower link fittings. In addition, the existing compliance time for the modification of the pylon lower link fitting attaching parts has been found to be inadequate to address the unsafe condition. The NPRM proposed to continue to require the requirements of ADs 2014–16–16 and 2018–19–28, as specified in ANAC AD 2020–06–02R02. The NPRM also proposed to require application of a lower torque value, inspection of certain shear pins and replacement if necessary, and revised compliance times for the modification, as specified in ANAC AD 2020–06–02R02. The NPRM also proposed to prohibit the installation of affected parts.

The FAA is issuing this AD to address loss of integrity of the engine pylon lower link fittings, which could lead to separation of the engine from the wing. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

ANAC AD 2020–06–02R02 describes procedures for: Reduction of the torque to be applied to the castellated nuts of the external shear pins; inspection of the external shear pin; modification of the attaching parts of the left-hand (LH) and right-hand (RH) pylon lower link fittings, inboard and outboard positions; and repetitive retorquing of the pylon outboard and inboard lower link fittings.

This AD also requires Embraer Service Bulletin 190–54–0013, dated November 27, 2012; and Embraer Service Bulletin 190LIN–54–0004, dated December 20, 2012; which the Director of the Federal Register approved for incorporation by reference as of September 2, 2014 (79 FR 48018, August 15, 2014).

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

Costs of Compliance

The FAA estimates that this AD affects 85 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2014–16–16.	6 work-hours × $85 per hour = $510	$0	$510	Up to $43,350.
Retained actions from AD 2018–19–28.	Up to 270 work-hours × $85 per hour = Up to $22,950.	$3,200	Up to $26,150	Up to $2,222,750.
New actions	Up to 274 work-hours × $85 per hour = Up to $23,290.	Up to $3,180	Up to $26,470	Up to $2,249,950.

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

According to the manufacturer, some or all of the costs of this 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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2014–16–16, Amendment 39–17940 (79 FR 48018, August 15, 2014); and AD 2018–19–28, Amendment 39–19429 (83 FR 48935, September 28, 2018); and

■ b. Adding the following new AD:

2021–25–02 Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.): Amendment 39–21845; Docket No. FAA–2021–0692; Project Identifier MCAI–2020–01585–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 20, 2022.

(b) Affected ADs

(1) This AD replaces AD 2014–16–16, Amendment 39–17940 (79 FR 48018, August 15, 2014) (AD 2014–16–16).

(2) This AD also replaces AD 2018–19–28, Amendment 39–19429 (83 FR 48935, September 28, 2018) (AD 2018–19–28).

(c) Applicability

This AD applies to all Yaborã Indústria Aeronáutica S.A. (type certificate previously held by Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by reports of bushing migration, loss of nut torque on the engine pylon lower inboard and outboard link fittings, a loose lower link assembly, and damaged nuts; and the need to shorten the compliance time for the modification of the pylon lower link fitting attaching parts. The FAA is issuing this AD to prevent loss of integrity of the lower link fittings of the engine pylon, which could lead to separation of the engine from the wing.

(f) Compliance

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

(g) Requirements

For airplanes identified in Agência Nacional de Aviação Civil (ANAC) AD 2020–06–02R02, effective November 30, 2020 (ANAC AD 2020–06–02R02): Except as specified in paragraphs (h) and (i) of this AD, comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2020–06–02R02.

(h) Exceptions to ANAC AD 2020–06–02R02

(1) Where ANAC AD 2020–06–02R02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where ANAC AD 2020–06–02R02 refers to July 3, 2014, this AD requires using September 2, 2014 (the effective date of AD 2014–16–16).

(3) Where ANAC AD 2020–06–02R02 refers to April 25, 2017, this AD requires using November 2, 2018 (the effective date of AD 2018–19–28).

(4) Paragraphs (y), ''Alternative methods of compliance (AMOCs),'' and (z), ''Material incorporated by reference,'' of ANAC AD 2020–06–02R02 do not apply to this AD.

(5) Where ANAC AD 2020–06–02R02 specifies ''replace immediately,'' this AD requires replacing ''before further flight.''

(6) Paragraph (w), ''Parts installation prohibition,'' of ANAC AD 2020–06–02R02 does not apply to this AD, except as specified in paragraph (i) of this AD.

(i) Parts Installation Prohibition

As of September 2, 2014 (the effective date of AD 2014–16–16), no person may install a lock assembly identified in Embraer Service Bulletin 190–54–0013, dated November 27, 2012; or Embraer Service Bulletin 190LIN–54–0004, dated December 20, 2012; at the inboard or outboard lower link fitting on any airplane.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as specified by paragraph (h) of this AD, for service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

For more information about this AD, contact Krista Greer, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov.*

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 20, 2022.

(i) Agência Nacional de Aviação Civil (ANAC) AD 2020–06–02R02, effective November 30, 2020.

(ii) [Reserved]

(4) The following service information was approved for IBR on September 2, 2014 (79 FR 48018, August 15, 2014).

(i) Embraer Service Bulletin 190–54–0013, dated November 27, 2012.

(ii) Embraer Service Bulletin 190LIN–54–0004, dated December 20, 2012.

(5) For ANAC AD 2020–06–02R02, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this ANAC AD on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

(6) For Embraer service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brazil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* internet *http://www.flyembraer.com.* For Embraer service information that is applicable to Yaborã Indústria Aeronáutica S.A. Model ERJ 190–100 ECJ airplanes, contact Embraer S.A., Technical Publications Section (PC 560), Rodovia Presidente Dutra, km 134, 12247–004 Distrito Eugênio de Melo—São José dos Campos—SP—Brazil; telephone +55 12 3927–0386; email *distrib@embraer.com.br;* internet *https://www.mytechcare.embraer.com.*

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

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

Issued on November 24, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27187 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 107

[Docket No. FAA–2021–1158; Notice No. 107–21–01–NOA]

Accepted Means of Compliance; Operations Over Human Beings, Category 2 and Category 3 Small Unmanned Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notification of availability.

SUMMARY: This document announces the acceptance of a means of compliance (MOC) in accordance with a rule issued by the FAA on January 21, 2021, and went into effect on April 21, 2021. The Administrator finds the Virginia Tech

Mid-Atlantic Aviation Partnership (VT MAAP) MOC Version 1.0 an acceptable means, but not the only means, of demonstrating compliance with the requirements of Category 2 and Category 3 small unmanned aircraft systems (small UAS) operations over people.

DATES: December 16, 2021.

FOR FURTHER INFORMATION CONTACT:

FAA Contact: Jeffrey Bergson, Production and Airworthiness Systems, AIR–632, Systems Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, AIR–600: 800 Independence Ave SW, Washington, DC 20591; telephone 206–231–3661; email: *jeffrey.bergson@faa.gov*; telephone 1–844–FLY–MYUA; email: *UASHelp@faa.gov*.

VT MAAP Contact: Robert Briggs, UAS Chief Engineer, 1991 Kraft Drive, Suite 2018, Blacksburg, VA 24061, (540) 231–9373; *rcbriggs@vt.edu*.

SUPPLEMENTARY INFORMATION:

Background

The FAA published Title 14 Code of Federal Regulations, part 107, subpart D permitting the routine operation of small UAS at night or over people under certain conditions. Subpart D also provides aircraft eligibility and operating requirements for categories of operations over people. When promulgated, this rule was the next step in the FAA's incremental approach to integrating UAS into the national airspace system, based on demands for increased operational flexibility and the experience the FAA has gained since it initially published part 107.

To satisfy the eligibility requirements of part 107, subpart D, a small unmanned aircraft must meet the performance-based safety requirements of § 107.120(a) for operations in Category 2 or the performance-based safety requirements of § 107.130(a) for operations in Category 3 or both by following an FAA-accepted MOC. An FAA-accepted MOC addresses the minimum testing, inspection, or analysis necessary to demonstrate compliance with the safety requirements.

An acceptable MOC must consist of test, analysis, or inspection. It must address the injury severity limits, the exposed rotating parts prohibition, and verification that there are no safety defects. The FAA must accept a MOC before an applicant can rely on it to declare compliance with part 107, subpart D requirements. In addition, the FAA indicates acceptance of a MOC by publishing a Notice of Availability in the **Federal Register** identifying the MOC as accepted and by informing the applicant of its acceptance.[1]

Means of Compliance Accepted in This Policy

VT MAAP published the Operation of Small UAS Over People MOC Version 1.0 on October 20, 2021. The FAA has acknowledged VT MAAP's performance-based MOC as an acceptable MOC to the requirements of § 107.120(a) for operations in Category 2, or the requirements of § 107.130(a) for operations in Category 3.

To utilize this MOC, an applicant should provide the VT MAAP Federal Aviation Administration designated UAS Test Site with data on the small unmanned aircraft. VT MAAP Test Site utilizes this information to conduct a safety defect and failure assessment. This assessment will determine the required testing to assess the small unmanned aircraft's impact injury severity and laceration potential. The VT MAAP Test Site will conduct the necessary testing and document the results. Lastly, VT MAAP conducts a final safety and compliance review to determine the small unmanned aircraft compliance with § 107.120(a) or § 107.130(a) as applicable. VT MAAP provides the results of this process to the applicant for inclusion in a Declaration of Compliance.

Availability

This notice serves as a formal acceptance by the Federal Aviation Administrator of the Virginia Tech Mid-Atlantic Aviation Partnership's Means of Compliance Version 1.0.

Issued in Washington, DC, on December 10, 2021.

Brian E. Cable,

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

[FR Doc. 2021–27188 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–13–P

[1] *Operation of Small Unmanned Aircraft Systems Over People,* 86 FR 4314 (January 15, 2021), available at *https://www.regulations.gov/document/FAA-2018-1087-0968.*

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

[DOL Docket No. ETA–2020–0005]

RIN 1205–AB99

Adjudication of Temporary and Seasonal Need for Herding and Production of Livestock on the Range Applications Under the H–2A Program

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (the Department or DOL) is amending its regulations regarding the adjudication of temporary need for employers seeking to employ nonimmigrant workers in job opportunities covering the herding or production of livestock on the range. Consistent with a court-approved settlement agreement, this final rule rescinds the regulatory provision that governed the period of need for such job opportunities under the H–2A visa classification to ensure the Department's adjudication of temporary or seasonal need is conducted in the same manner for all applications for temporary agricultural labor certification.

DATES: This final rule is effective January 18, 2022.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

SUPPLEMENTARY INFORMATION:

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I. Background on 20 CFR Part 655, Subpart B

A. Statutory Framework

The H–2A nonimmigrant worker visa program enables U.S. agricultural employers to employ foreign workers on a temporary basis to perform temporary or seasonal agricultural labor or services where the Secretary of Labor (Secretary) certifies that (1) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of foreign workers in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. *See* section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. 1101(a)(15)(H)(ii)(a); section 218(a)(1) of the INA, 8 U.S.C. 1188(a)(1). The Secretary has delegated the authority to issue temporary agricultural labor certifications to the Assistant Secretary, Employment and Training Administration (ETA), who in turn has delegated that authority to ETA's Office of Foreign Labor Certification (OFLC). Secretary's Order 06–2010 (Oct. 20, 2010).[1] Once OFLC issues a temporary agricultural labor certification, employers may then petition the U.S. Department of Homeland Security (DHS) to employ a nonimmigrant worker in the United States in the H–2A visa classification.

B. Regulatory Framework

Since 1987, the Department has operated the H–2A temporary agricultural labor certification program under regulations promulgated pursuant to the INA.[2] With limited exceptions, including those set forth below, the Department's current regulations governing the H–2A program were published in 2010.[3] The standards and procedures applicable to the certification and employment of workers under the H–2A program are found in 20 CFR part 655, subpart B and 29 CFR part 501.[4]

Historically, employers in a number of States (primarily but not exclusively in the western continental United States) have used what is now the H–2A program to bring in foreign workers to work as sheep and goat herders.[5] Beginning in 1989, and consistent with Congress' historical approach, the Department established variances from certain H–2A regulatory requirements and procedures through sub-regulatory guidance to allow employers of open range sheep and goat herders to use the H–2A program. The Department established similar variances or ''special procedures'' through sub-regulatory guidance in 2007 for employers seeking to employ H–2A workers for open range herding or production of livestock positions. In 2015, the Department incorporated these ''special procedures'' provisions for the employment of workers in the herding and production of livestock on the range, with some modifications, into its H–2A regulations. *Temporary Agricultural Employment of H–2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States,* 80 FR 62958 (Oct. 16, 2015) (2015 Rule).[6] The 2015 Rule, codified at §§ 655.200 through 655.235, continued the agency's recognition of the unique occupational characteristics of herding positions, which involve spending extended periods of time herding animals across remote range lands and being on call to protect and maintain herds for up to 24 hours a day, 7 days a week.[7]

Section 101(a)(15)(H)(ii)(a) of the INA permits only ''agricultural labor or services . . . of a temporary or seasonal nature'' to be performed under the H–2A visa category. 8 U.S.C. 1101(a)(15)(H)(ii)(a). Thus, as part of the Department's adjudication of applications for temporary agricultural labor certification, the Department assesses on a case-by-case basis whether the employer has established a temporary or seasonal need for the agricultural work to be performed. *See* 20 CFR 655.161(a). In its initial rulemaking on the H–2A program, the Department explained that it would be appropriate for an employer to apply annually for recurring job opportunities in the same occupation when it involved ''truly 'seasonal' employment,'' but acknowledged that ''the longer the employer needs a 'temporary' worker, the more likely it would seem that the job has in fact become a permanent one.'' *Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States,* 52 FR 20496, 20498 (June 1, 1987). The Department's current regulations, which adopted DHS's definition of ''temporary

[1] In addition, the Secretary has delegated to the Department's Wage and Hour Division the responsibility under section 218(g)(2) of the INA, 8 U.S.C. 1188(g)(2), to assure employer compliance with the terms and conditions of employment under the H–2A program. Secretary's Order 01–2014 (Dec. 19, 2014).

[2] The Immigration and Nationality Act of 1952 created the H–2 temporary worker program. Public Law 82–414, 66 Stat. 163. In 1986, IRCA divided the H–2 program into separate agricultural and nonagricultural temporary worker programs. *See* Public Law 99–603, section 301, 100 Stat. 3359 (1986). The H–2A agricultural worker program designation corresponds to the statute's agricultural worker classification in 8 U.S.C. 1101(a)(15)(H)(ii)(a).

[3] *Temporary Agricultural Employment of H–2A Aliens in the United States,* 75 FR 6884 (Feb. 12, 2010).

[4] The Department remains engaged in a separate rulemaking that seeks to amend these regulations as they pertain to the H–2A program. Through a Notice of Proposed Rulemaking published in July 2019 (2019 NPRM), the Department proposed amendments to the current regulations that focus on modernizing the H–2A program and eliminating inefficiencies. *Temporary Agricultural Employment of H–2A Nonimmigrants in the United States,* 84 FR 36168 (July 26, 2019). The 2019 NPRM also proposed to amend the regulations for enforcement of contractual obligations for temporary foreign agricultural workers and the Wagner-Peyser Act regulations to provide consistency with proposed revisions to H–2A program regulations governing the temporary agricultural labor certification process. *Id.; see also Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States,* 85 FR 70445, 70447 (Nov. 5, 2020) (establishing a revised methodology for determining the Adverse Effect Wage Rate (AEWR) methodology for non-range occupations in one final rule and explaining that ''[t]he Department intends to address all of the remaining proposals from the July 26, 2019 proposed rule in a subsequent, second final rule governing other aspects of the certification of agricultural labor or services to be performed by H–2A workers and enforcement of the contractual obligations applicable to employers of such nonimmigrant workers.'').

[5] As the Department explained in its 2015 herder rulemaking, Congress enacted statutes during the early 1950s authorizing the permanent admission of a certain number of ''foreign workers skilled in sheepherding.'' *See Temporary Agricultural Employment of H–2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States,* 80 FR 20300, 20301–20302 (Apr. 15, 2015). Congress subsequently permitted these special laws to expire and signaled that sheepherders should be admitted under the existing temporary (then H–2) program. *Id.; see also Changes to Requirements Affecting H–2A Nonimmigrants,* 73 FR 76891, 76906–76907 (Dec. 18, 2008).

[6] The 2015 Rule followed litigation in *Mendoza* v. *Perez,* in which the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held the special procedures pertaining to sheep, goat, and other open range herding or production of livestock were subject to the Administrative Procedure Act's notice and comment requirements. 754 F.3d 1002, 1024 (D.C. Cir. 2014); *see Mendoza* v. *Perez,* 72 F. Supp. 3d 168, 175 (D.D.C. 2014) (remedial order setting a rulemaking schedule).

[7] The 2019 NPRM proposed clarifying and technical revisions to certain provisions concerning the employment of workers in herding and production of livestock on the range (*e.g.,* portions of 20 CFR 655.205, 655.211, 655.220, and 655.225) that are not the subject of this rulemaking. 84 FR 36168, 36220–21. The 2019 NPRM also proposed to incorporate into the H–2A regulations, with some modifications, the standards and procedures currently found in Training and Employment Guidance Letters related to animal shearing, commercial beekeeping, and custom combining, and to rescind the general provision that allows for the creation of ''special procedures'' (*i.e.,* sub-regulatory variances from the regulations). *Id.* at 36171–73. As explained above, the Department remains engaged in a separate rulemaking addressing these proposed changes.

or seasonal nature,'' specify that employment is of a temporary nature ''where the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than 1 year,'' and ''of a seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels far above those necessary for ongoing operations.'' 20 CFR 655.103(d); 8 CFR 214.2(h)(5)(iv)(A); 75 FR 6884, 6890 (adopting DHS's definition ''was not intended to create any substantive change in how the Department administers the program''). DHS regulations further provide that the Department's finding that employment is of a temporary or seasonal nature is ''normally sufficient'' for the purpose of an H–2A petition, but state that notwithstanding this finding, DHS adjudicators will not find employment to be temporary or seasonal in certain situations, such as when ''substantial evidence'' exists that the employment is not temporary or seasonal. 8 CFR 214.2(h)(5)(iv)(B).

Notwithstanding the regulatory definition found in 20 CFR 655.103(d) and 8 CFR 214.2(h)(5)(iv)(A), the 2015 Rule allowed employers of sheep and goat herders to apply for a temporary agricultural labor certification for a period of up to 364 days. 80 FR 62958, 62999–63000; *see* 20 CFR 655.215(b)(2) (''The period of need identified on the *H–2A Application for Temporary Employment Certification* and job order for range sheep or goat herding or production occupations must be no more than 364 calendar days.''). Conversely, the same rule limited employers of range livestock work to a temporary agricultural labor certification with a period of need not to exceed 10 months. 80 FR 62958, 63000; *see* 20 CFR 655.215(b)(2) (''The period of need identified on the *H–2A Application for Temporary Employment Certification* and job order for range herding or production of cattle, horses, or other domestic hooved livestock, except sheep and goats, must be for no more than 10 months.'').

C. The Hispanic Affairs Project Litigation and Need for Rulemaking

On September 22, 2015, four sheepherders and a nonprofit member organization for immigrant workers filed a lawsuit in federal court challenging aspects of the 2015 Rule. *Hispanic Affairs Project* v. *Perez,* 206 F. Supp. 3d 348 (D.D.C. 2016). As relevant to this rulemaking, the plaintiffs challenged the Department's decision to allow employers seeking temporary agricultural labor certifications for sheep or goat herder positions to apply for periods of need that last up to 364 days at a time. *See Hispanic Affairs Project* v. *Acosta,* 263 F. Supp. 3d 160, 182 (D.D.C. 2017) (citing 20 CFR 655.215(b)(2)). The plaintiffs also challenged DHS's alleged practice of automatically approving sheep and goat herder petitions for recurring periods up to 364 days, asserting that the Department's regulation at § 655.215(b)(2) and DHS's alleged practice did not conform with the INA or the Departments' regulations, in violation of the APA. *See id.* Specifically, the plaintiffs argued § 655.215(b)(2) and DHS's alleged practice are inconsistent with 8 U.S.C. 1101(a)(15)(H)(ii)(a), which provides that H–2A visas be only for ''temporary'' work, and conflicts with the Departments' regulations defining when employment is of a ''temporary or seasonal nature.'' *See id.; compare* 20 CFR 655.103(d) *and* 8 CFR 214.2(h)(5)(iv)(A) (employer's ''need to fill the position with a temporary worker will . . . last no longer than one year'') *with* 20 CFR 655.215(b)(2) (''The period of need identified on the [application and job order] . . . must be no more than 364 calendar days.''). The district court dismissed the challenge on procedural grounds, concluding the plaintiffs waived their claim against the Department and did not properly or timely raise their claim against DHS. *Id.* at 185–86, 190.[8]

On appeal, the D.C. Circuit reversed and remanded the district court's decision on these claims for a resolution on the merits. *Hispanic Affairs Project* v. *Acosta,* 901 F.3d 378, 396–97 (D.C. Cir. 2018). The court held the plaintiffs preserved their challenge to the Department's decision in the 2015 Rule to classify sheep and goat herding as ''temporary'' employment. *Id.* at 385. In dicta, the court noted the ''agency has no power under the statute—it is actually forbidden—to include non-temporary or non-seasonal workers in the H–2A program.'' *Id.* at 389. The court also held the complaint adequately raised a challenge to DHS's alleged practice of extending ''temporary'' H–2A petitions beyond the regulatory definition of temporary employment. *Id.* at 385, 388. Taking the evidence submitted by the plaintiffs as true, the court concluded the plaintiffs had ''plausibly shown that [DHS]'s *de facto* policy of authorizing long-term visas is arbitrary, capricious, and contrary to law, in violation of the APA and [INA] because it 'authorizes the creation of permanent herder jobs that are not temporary or seasonal.' '' *Id.* at 386 (original alterations omitted).

The parties subsequently reached a settlement in which the Department agreed to engage in rulemaking to propose to rescind § 655.215(b)(2) and DHS, through U.S. Citizenship and Immigration Services (USCIS), agreed to publish a policy memorandum that provided guidance on the determination of temporary or seasonal need for H–2A sheep and goat herder petitions. Joint Status Report at 1, ECF No. 135, *Hispanic Affairs Project, et al.* v. *Scalia et al.,* No. 15–cv–1562 (D.D.C. Nov. 8, 2019); *see also* Order Approving the Parties' Settlement Agreement, ECF No. 136, *Hispanic Affairs Project, et al.* v. *Scalia et al.,* No. 15–cv–1562 (D.D.C. Nov. 12, 2019). Following a 30-day public comment period, USCIS published a final policy memorandum on February 28, 2020, which became effective on June 1, 2020. *See* USCIS, *Policy Memorandum: Updated Guidance on Temporary or Seasonal Need for H–2A Petitions Seeking Workers for Range Sheep and/or Goat Herding or Production* (Feb. 28, 2020) (USCIS Policy Memorandum).[9] On May 6, 2021, the Department published a NPRM that proposed to rescind § 655.215(b)(2).

II. Discussion of Proposed Revision to 20 CFR Part 655, Subpart B

The Department proposed to rescind § 655.215(b)(2) so that the temporary or seasonal need of an employer seeking to fill a herding or production of livestock on the range position would be adjudicated according to the requirement in § 655.103(d) that governs the adjudication of employment of a temporary or seasonal nature for all other H–2A applications. *See* 20 CFR 655.200(a) (noting that employers whose job opportunities meet the qualifying criteria under §§ 655.200–655.235 must fully comply with all the requirements of §§ 655.100–655.185 unless otherwise specified in §§ 655.200–655.235).

[8] Plaintiffs also challenged two other aspects of the 2015 Rule: (1) Certain definitions and requirements that limit the scope and location of work that H–2A workers in sheep and goat herding positions may perform, 80 FR 62958, 62963–73; and (2) the methodology by which the Department calculates the minimum required wage that such workers (and any non-H–2A workers in corresponding employment) must be offered and paid, *id.* at 62986–96. The Department and DHS prevailed on these issues. *See Hispanic Affairs Project* v. *Acosta,* 901 F.3d 378, 391–96 (D.C. Cir. 2018), *aff'g in part* 263 F. Supp. 3d 160, 190–207 (D.D.C. 2017).

[9] *See https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2020/2-PMH2A-SeasonalSheepGoatHerder_PolicyMemo.pdf.*

The Department explained in the NPRM that the proposed rescission of § 655.215(b)(2) would eliminate that provision's presumptive period of need for employment involving range sheep or goat herding and absolute restriction on the period of need for employment involving other range livestock activities. As the NPRM acknowledged, the 2015 Rule suggested the unique nature and history of herding work permitted a variance, on an occupational basis, from the standard H–2A requirements governing the adjudication of an employer's temporary need. As such, § 655.215(b)(2) allowed certification of a specific period of time without requiring the Department to assess the nature of the employer's need for the labor or services to be performed. The NPRM, accordingly, proposed to rescind § 655.215(b)(2) so that all employers applying for temporary agricultural labor certifications must individually demonstrate a temporary or seasonal need for the agricultural labor or services to be performed, regardless of occupation. As the Department explained in the NPRM, this rescission of § 655.215(b)(2) is not only consistent with the D.C. Circuit's decision in *Hispanic Affairs Project* and the guidance issued by USCIS, but also better complies with the requirements of the INA implemented in the Departments' regulations that define when employment is of a ''temporary or seasonal nature.'' 8 U.S.C. 1101(a)(15)(H)(ii)(A) (defining an H–2A nonimmigrant as a foreign worker coming to perform services of a temporary or seasonal nature); 20 CFR 655.103(d); 75 FR 6884, 6890 (adopting DHS's definition of ''temporary or seasonal nature'' set forth in 8 CFR 214.2(h)(5)(iv)(A)). The Department sought public comment on all issues related to its proposal to rescind § 655.215(b)(2), including economic or other regulatory impacts of the proposed rule on the public.[10]

[10] As noted above, the 2019 NPRM proposed to amend regulations governing the certification of agricultural labor or services to be performed by temporary foreign workers in H–2A nonimmigrant status and the enforcement of contractual obligations applicable to employers of such nonimmigrant workers. 84 FR 36168. In particular, the 2019 NPRM sought public comment on the possibility of moving the adjudication of an employer's temporary or seasonal need exclusively to DHS or exclusively to DOL. *Id.* at 36178. In the NPRM to this rule, the Department explained that comments on the proposals contained in the 2019 NPRM are outside of the scope of the limited rulemaking here. 86 FR 24368, 24371. Given the narrow scope of this rulemaking and because a rule finalizing the non-AEWR provisions of the 2019 NPRM has not published, the rulemaking associated with the 2019 NPRM does not affect the issuance of this rule.

III. Public Comments Received

The Department's 30-day comment period on its proposed rescission § 655.215(b)(2) opened on May 6, 2021 and closed on June 7, 2021, with comments submitted electronically at *http://www.regulations.gov/* using docket number ETA–1205–AB99. During this comment period, ETA received eight comments, none of which opposed adopting the proposal. Some contained comments outside of the scope of this rulemaking, as discussed below, while others were submitted on behalf of multiple entities. Commenters represented stakeholders from the public, private, and not-for-profit sectors and included industry associations, worker advocacy organizations, a State Department of Agriculture, a think tank, and private individuals. The Department appreciates all of the comments it received. After full consideration of the comments and for the reasons explained below, the Department is adopting the proposal to rescind § 655.215(b)(2).

A. Comments Supporting Rescission of § 655.215(b)(2)

Commenters generally supported the Department's proposal to rescind § 655.215(b)(2), though some commenters expressed potential concerns with the Department's implementation of the change. Several worker advocacy organizations and a think tank stated that the proposed revision more closely reflects statutory requirements by limiting H–2A employment to truly seasonal or temporary work for which employers are unable to find sufficient U.S. workers. Some of these commenters stated that the rescission of § 655.215(b)(2) would simplify the H–2A program, promote consistency between USCIS and DOL with regard to the agencies' adjudication of temporary and seasonal need, and strengthen labor protections, without imposing a substantial or unfair burden on herding employers. Industry associations and a State Department of Agriculture did not oppose the proposed change, though they expressed concerns with its implementation and employers' ability to fulfill their labor needs.

Commenters asked the Department to address how it will assess temporary or seasonal need under § 655.103(d), in particular where an employer has a history of filing under § 655.215(b)(2). Some of the worker advocacy organizations urged the Department to remind employers that the H–2A program is to be used only for agricultural labor needs of a temporary or seasonal nature and that permanent labor needs are not eligible for H–2A certification but may be eligible for employment-based immigrant visas. These commenters also asked the Department to guard against employers fulfilling permanent job needs with H–2A workers, by noting, for example, that an employer must meet both parts of the definition of seasonal need under § 655.103(d). In contrast, industry associations and a State Department of Agriculture asked the Department not to weigh an employer's filing history too heavily, as employers were previously not required to separate distinct temporary or seasonal needs into different applications under § 655.215(b)(2). These commenters stressed that changes in how an employer describes the services or labor needed, including the period of employment, on new applications may demonstrate compliance with § 655.103(d) rather than changes in the temporary or seasonal nature of an employer's labor needs. In addition, these commenters noted difficulty hiring sufficient U.S. workers to fulfill employers' labor needs and the potential downstream effects of downsizing range operations should employers no longer be able to hire foreign workers, which could necessitate operational changes that affect an employer's temporary or seasonal need for labor. Both worker advocacy organizations and an industry association asked the Department to recognize USCIS' Policy Memorandum and adopt a similar approach to case-by-case assessment of an employer's temporary or seasonal need and filing history.

The Department agrees that adopting the proposal will simplify and promote consistency within the H–2A program, while acknowledging the concerns expressed by commenters regarding how the agency plans to assess an employer's seasonal or temporary need under the standard at § 655.103(d). As noted in the NPRM, the Department will examine—on a case-by-case basis and taking into consideration the totality of the facts presented—whether an employer's need to fill a herding or production of livestock on the range position is of a temporary or seasonal nature, as those terms are defined in the Department's and DHS's regulations. *See* 20 CFR 655.103(d); 8 CFR 214.2(h)(5)(iv)(A). Section 655.103(d) states that employment ''is of a temporary nature where the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no

longer than 1 year.'' The same section states that ''employment is of a seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels far above those necessary for ongoing operations.'' While this rule rescinds § 655.215(b)(2) so that the Department's adjudication of temporary or seasonal need is conducted in the same manner for all H–2A applications pursuant to § 655.103(d), it does not alter the regulatory definition and standards by which the Department adjudicates temporary or seasonal need under § 655.103(d).

In particular, though recurring year-round activities cannot be classified as temporary, *see* 75 FR 6884, 6891, the Department recognizes, as explained in the NPRM, that some herder employers may be able to establish a need to fill positions on a recurring annual basis consistent with the definition of employment of a seasonal nature in § 655.103(d). *See* 86 FR 24368, 24371; 80 FR 62958, 62999–63000 (2015 Rule describing comments that delineated seasonal aspects of herder work); 52 FR 20496, 20498 (acknowledging it is appropriate to apply annually for truly ''seasonal'' employment); *see also* USCIS Policy Memorandum at 3 n.3 (explaining that an employer's need for workers that recurs annually at a given time of year does not mean its need is permanent in nature as employment of a seasonal nature is defined as being tied to a certain time of year). As some commenters noted, such employers will need to show they meet both parts of the definition of seasonal need in § 655.103(d)—that is, the employment (1) ''is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle'' and (2) ''requires labor levels far above those necessary for ongoing operations.'' The Department also acknowledged in the NPRM that some employers may have a ''temporary'' need to fill herding and range livestock job opportunities, which is permissible provided they can show the nature of their need is temporary under § 655.103(d). *See Temporary Workers Under § 301 of the Immigration Reform and Control Act,* 11 Op. O.L.C. 39, 40 & n.4 (1987) (noting '' 'temporary' means something other than seasonal'' and explaining employers may fill ''permanent jobs that an employer needs to fill on a temporary basis—for example, because the regular American employee has fallen ill or extra hands are needed during a busy period''); 11 Op. O.L.C. at 42 (''The nature of the job itself is irrelevant. What is relevant is whether the employer's need is truly temporary.'').

This final rule aligns the Department's adjudication of the temporary or seasonal need of herder applications with the guidance DHS has implemented in the USCIS Policy Memorandum, which the Department encourages employers and other interested parties to review. The memorandum explains, for example, that USCIS will adjudicate H–2A sheep and goat herder petitions filed on or after June 1, 2020, on a case-by-case basis, taking into consideration the totality of the facts presented, and in the same manner as all other H–2A petitions. USCIS Policy Memorandum at 1, 9. Past periods of need approved by USCIS prior to June 1, 2020, will be one element considered when determining whether an H–2A petition demonstrates a true temporary or seasonal need. *Id.* at 9. Similar to USCIS' approach, and as indicated above, the Department's adjudication will be conducted on a case-by-case basis and will take into consideration the totality of the facts presented, of which past periods of need will be one element that is considered in determining whether an employer's need is truly temporary or seasonal.[11]

When an employer is unable to fulfill its need for labor to perform herding and production of livestock duties on the range under the H–2A program, as with any employer whose need is neither temporary nor seasonal, the employer may apply for labor certification through the visa program appropriate to its need. For example, employers with permanent, rather than temporary or seasonal, needs may wish to petition for workers under employment-based immigrant visa programs. *See, e.g.,* 8 U.S.C. 1153(b)(3); *see also* 8 U.S.C. 1101(a)(15)(H)(ii)(a) (INA permits only ''agricultural labor or services . . . of a temporary or seasonal nature'' to be performed under the H–2A visa category).

[11] In recognition of employers' need to transition from compliance with § 655.215(b)(2) to § 655.103(d) and similar to guidance in USCIS' Policy Memorandum, employers seeking herding or production of livestock on the range job opportunities are encouraged, in describing their temporary or seasonal needs in future filings, to explain why any past filings history is not indicative of a non-temporary and non-seasonal need. Although the Department may consider the fact of a past filing history before the effective date of this rule, the Department will fully consider such explanation and possible reliance on past procedures in the totality of the circumstances when making a temporary or seasonal need determination. *See* USCIS Policy Memorandum, at 6 n.5, 9 n.11.

B. Out of Scope Comments

The NPRM invited comments related to the Department's proposal to rescind § 655.215(b)(2). Comments received that are unrelated to the Department's proposal are beyond the scope of this action and have not been considered in the Department's assessment of its proposed rescission.

Several comments were beyond the scope of this action. Two of the commenters did not address the Department's proposal; instead, one expressed general dissatisfaction with the H–2A program and the other appeared to be seeking a herding position. Other commenters addressed topics that are not the subject of this rulemaking, including wage and housing requirements for herders and production of livestock workers on the range as well as the definition of ''temporary'' or ''seasonal'' under 20 CFR 655.103(d), which reflects DHS's regulatory definition at 8 CFR 214.2(h)(5)(iv)(A) and has been in effect for more than a decade. For example, one comment requested the Department clarify the definition of ''temporary'' and ''seasonal'' under § 655.103(d), including how this definition applies across recurring H–2A applications and in situations where an employer has maintained substantially similar operations in previous seasons. Because proposed changes to the wage and housing requirements for herders and the regulatory definition and standards by which the Department adjudicates temporary or seasonal need under § 655.103(d) are not the subject of this regulatory action, the Department deems the above comments as out of scope.

IV. Administrative Information

A. Executive Order 12866, Regulatory Planning and Review; and Executive Order 13563, Improved Regulation and Regulatory Review

Under Executive Order (E.O.) 12866, the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs determines whether a regulatory action is significant and therefore, subject to the requirements of the E.O. and OMB review. Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise

interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. This final rule is a significant, but not economically significant, regulatory action under Section 3(f) of E.O. 12866. The Department has prepared a Regulatory Impact Analysis (RIA) in connection with this final rule, as required under section 6(a)(3) of E.O. 12866.

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

Overview of This Final Rule

The Department has determined that this final rule is necessary to clarify the Department's adjudication of temporary or seasonal need for herding and range livestock applications for temporary agricultural labor certification under the H–2A program, and to align that adjudication with the requirements of the INA. The final rule also standardizes the Department's adjudication of temporary need under the H–2A program. The Department's definition of ''temporary or seasonal nature'' for the H–2A program, with the exception of its current definition of ''temporary'' for herding and range livestock occupations, is consistent with the Department of Homeland Security's definition specifying that employment is of a temporary nature ''where the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than 1 year,'' and ''of a seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels far above those necessary for ongoing operations.'' 20 CFR 655.103(d); 8 CFR 214.2(h)(5)(iv)(A).

Notwithstanding the regulatory definition found in 20 CFR 655.103(d) and 8 CFR 214.2(h)(5)(iv)(A), the 2015 Rule allowed employers of sheep and goat herders to apply for a temporary agricultural labor certification for a period of up to 364 days. Conversely, the same rule limited employers of range livestock occupations to a temporary agricultural labor certification with a period of need not to exceed 10 months. As discussed above, an appellate court held that plaintiffs preserved their challenge to the Department's decision in the 2015 Rule to classify sheep and goat herding as ''temporary'' employment. The court additionally held the complaint adequately raised a challenge to DHS's alleged practice of extending ''temporary'' H–2A petitions beyond the regulatory definition of temporary employment. Taking the evidence submitted by the plaintiffs as true, the court concluded the plaintiffs had plausibly shown DHS's alleged practice of automatically extending H–2A petitions is inconsistent with the APA and the INA because it '' 'authorizes the creation of permanent herder jobs that are not temporary or seasonal.' '' 901 F.3d at 386 (original alterations omitted). The parties subsequently reached a settlement agreement in which the Department agreed to engage in rulemaking to propose to rescind § 655.215(b)(2) and DHS, through USCIS, agreed to publish a policy memorandum that provided guidance on the determination of temporary or seasonal need for H–2A sheep and goat herder petitions.

In this final rule, the Department rescinds § 655.215(b)(2), eliminating that provision's presumptive period of need for employment involving range herding and absolute restriction on the period of need for employment involving range livestock activities. Instead, all employers applying for H–2A temporary agricultural labor certifications under the final rule must individually demonstrate that their need for workers is temporary or seasonal, regardless of occupation.

Economic Impact

The Department estimates that this final rule will result in costs to employers associated with rule familiarization requirements for all herding and range livestock employers utilizing the H–2A program. In addition, the Department believes that employers may incur other unquantifiable costs from the implementation of the final rule that can be attributed to changes in business operations, transportation, staffing turnover, and training requirements. As explained above, though recurring year-round activities cannot be classified as temporary, the Department recognizes that there may be seasonal aspects of herder work for which employers may still establish a need to fill positions on a recurring annual basis consistent with the definition of employment of a ''seasonal'' nature in § 655.103(d) and that some herder employers may also still present a need that is truly ''temporary'' under § 655.103(d) in certain circumstances. The Department qualitatively discusses the potential costs to employers incurred by the implementation of this final rule but does not quantify them due to a lack of available data and the wide spectrum of possible responses by employers that cannot be predicted with specificity. Moreover, apart from some commenters expressing concern about potential downsizing for employers who may not have a demonstrable ''seasonal'' or ''temporary'' need due to labor shortages, the Department did not receive public comments in response to the NPRM request for feedback regarding how these employers may be impacted by the proposed change in regulation.

Transfer payments under this final rule will result from eliminating the absolute restriction on the period of need for employment involving other range livestock activities and the presumptive period of need for employment involving range sheep or goat herding. In particular, some employers engaged in non-sheep and/or goat herding activities [12] may potentially extend their period of need beyond 10 months, provided they can show the nature of their need is temporary.[13] In addition, sheep and/or goat herding employers whose need is temporary or seasonal in nature and whose period of need currently exceeds 10 months are generally expected to reduce their period of need to 10 months or less.[14] See the costs and

[12] This includes range herding or production of cattle, horses, or other domestic hooved livestock except sheep and goats.

[13] For the purpose of this analysis, employers engaged in non-sheep and/or goat herding activities with a minimum period of need of 300 days and a maximum period of need of 308 days were used to make the Department's transfer estimates. The Department used 300 days to represent a period of 10 months; in fewer than eight instances, employers engaged in non-sheep and/or goat herding activities requested a longer period of need but none of these requests exceeded 308 days.

[14] The Department's records indicate that the majority of employers engaged in sheep and/or goat herding occupations would likely reduce their requested period of need to 10 months or less.

transfer payments subsections below for a detailed explanation.

As shown in Exhibit 1, the Department estimates this final rule will result in a quantified annualized cost of $3,144 at a discount rate of 7 percent and $2,588 at a discount rate of 3 percent, as well as unquantified costs associated with changes in business operations, transportation, staffing turnover, and training requirements. Additionally, this final rule is expected to result in transfers for all herding and range livestock employers. Some employers engaged in non-sheep and/or goat herding activities will incur a transfer from employers to employees due to rescinding the restriction on the period of need for employment involving range livestock activities. The Department also estimates that the final rule will result in annualized transfers of $95,556 at a discount rate of 7 percent and $91,983 at a discount rate of 3 percent for these employers. Furthermore, employers engaged in sheep and/or goat herding activities will experience a transfer from employees to employers due to a reduction in the allowed period of need for the majority of the aforementioned employers. The Department estimates that the final rule will result in annualized transfers of $8.42 million at a discount rate of 7 percent and $8.11 million at a discount rate of 3 percent for these employers.

EXHIBIT 1—ESTIMATED COSTS AND TRANSFER PAYMENTS OF THE FINAL RULE

	Costs	Transfer payments from employers of non-sheep and/or goat herding	Transfer payments to employers of sheep and/or goat herding
Undiscounted 10-Year Total	$22,079	$893,043	$78,731,848
10-Year total with a discount rate of 3%	22,079	784,637	69,174,659
10-Year total with a discount rate of 7%	22,079	671,143	59,168,812
Annualized at a discount rate of 3%	2,588	91,983	8,109,380
Annualized at a discount rate of 7%	3,144	95,556	8,424,308

The Department was unable to quantify some costs and benefits of this final rule, as discussed below.

i. Costs

a. Rule Familiarization Costs

When the final rule takes effect, herding and range livestock employers will need to familiarize themselves with the new regulations; consequently, this will impose a one-time cost in the first year upon implementation. The Department's analysis assumes that the changes introduced by the rule would be reviewed by Human Resources Specialists (SOC 13–1071). The median hourly wage for these workers is $29.77 per hour.[15] In addition, the Department assumes that benefits are paid at a rate of 46 percent [16] and overhead costs are paid at a rate of 17 percent of the base wage, resulting in a fully-loaded hourly wage of $48.53.[17] This hourly wage was multiplied by the estimated number of herding and range livestock employers (910) [18] and by the estimated amount of time required to review the rule (.5 hours). This calculation results in a one-time cost of $22,079 in the first year after this final rule takes effect. The annualized cost over the 10-year period is $2,588 and $3,144 at discount rates of 3 and 7 percent, respectively.

b. Other Costs

The Department assumes some employers will experience increased costs associated with changes in business operations, transportation, staffing turnover, and training requirements under this final rule. In accordance with the Department's current regulation, employers of sheep and goat herders are permitted to apply for a temporary agricultural labor certification for a period of up to 364 days. Under this final rule, sheep and goat herding employers whose need is temporary or seasonal in nature and whose period of need currently exceeds 10 months are generally expected to reduce their period of need to 10 months or less. Although the Department does not anticipate the final rule will have a significant adverse effect, as employers have already adjusted to USCIS' policy memorandum,[19] the Department acknowledges that some employers of sheep and goat herders may need to replenish their labor supply by hiring additional U.S. workers to account for the reduced period of need, petitioning for permanent workers through the appropriate visa programs as necessary, or extending the work schedule for U.S. workers that they employ if they are available. The Department also notes that, in instances where employers have recurring year-round labor needs that are actually permanent, rather than temporary or seasonal in nature, the Department expects some employers to utilize the employment-based immigrant petition process to hire foreign workers, which includes options for skilled workers, professionals, and other workers under 8 U.S.C. 1153(b)(3).

In response to the Department's analysis of costs in the NPRM, commenters including two industry associations and a State Department of Agriculture disagreed with the Department's assessment that some employers of sheep and goat herders will replenish their labor supply by hiring additional U.S. workers. For example, one industry association stated that DOL's proposed regulatory changes and economic analysis misconstrue the idea that U.S. workers are willing and

[15] Median hourly wage for Human Resources Specialists were obtained from the Bureau of Labor Statistics Occupational Employment Statistics Survey, May 2019, *https://www.bls.gov/oes/current/oes131071.htm.*

[16] The benefits-earnings ratio is derived from the Bureau of Labor Statistics' Employer Costs for Employee Compensation data using variables CMU1020000000000D and CMU1030000000000D.

[17] $29.77 + $29.77(0.46) + $29.77(0.17) = $48.53.

[18] The Department's estimate of 910 unique employers is based on H–2A certification data from Fiscal Years (FYs) 2017, 2018, and 2019. The Department identified the average number of unique applicants engaged in sheep and/or goat herding activities across FYs 2017, 2018, and 2019 (744). This was then added to the average number of unique applicants engaged in non-goat/sheep and/or goat herding activities across the same time period (166). 744 + 166 = 910.

[19] Based on OFLC's H–2A public disclosure data that is accessible at *https://www.dol.gov/agencies/eta/foreign-labor/performance,* employers seeking range sheep and/or goat herding job opportunities filed 914 applications with OFLC from June 1, 2020—the date USCIS' policy memorandum went into effect—until June 30, 2021 (*i.e.,* the end of the third quarter in FY 2021). Of these applications, 99 percent requested periods of need that were 10 months or less. In addition, the average period of need for unique certified employers of sheep and goat herding was approximately 166 days, in contrast to FY 2017 to FY 2019, in which the average period of need exceeded 10 months, ranging from 356 days in FY 2019 to 360 days in FY 2017. *See* Exhibit 3.

able to perform the jobs agricultural employers are seeking throughout the different times of the year, as ranchers have often found that they cannot find domestic help where the domestic labor force is in short supply. Other commenters noted the skillset to perform herding work is not available domestically and that range management plans on Federal lands and many State and tribal lease lands require at least one herder, without providing additional explanation. Due to the dynamic nature of the labor market, the Department acknowledges that the domestic workforce may not entirely offset the personnel changes that could occur following the implementation of this final rule and anticipates that agricultural employers may also adopt changes to their business practices, such as extending the work schedules for U.S. workers that they currently employ or petitioning for permanent workers through the appropriate visa programs as necessary.

Several industry associations indicated that the cost effects of this final rule are likely to be experienced over time due to industries involved in the production of sheep, goats, and livestock needing time to adapt to the requirements of the new rule. One of these comments suggested that downstream effects on jobs in the agricultural supply chain are those most likely to be impacted over time and should be addressed in the economic analysis of this rulemaking. The Department did not receive any data or information from commenters to allow for a quantification of such impacts. As noted above, however, because USCIS' policy memorandum became effective on June 1, 2020 and—based on recent filing data, employers have already adjusted to this guidance—the Department anticipates the change in operation costs for most employers and any corresponding downstream effects due to the issuance of this final rule to be limited.

Transfers

The first category of transfers associated with this final rule is an employer to employee transfer incurred due to a potential increase in the maximum period of need from 10 months up to 1 year, or longer in extraordinary circumstances, for a small number of employers engaged in non-sheep and/or goat herding who can demonstrate that their need is temporary.

Exhibit 2 presents the distribution of the period of need on approved applications filed by unique employers of non-sheep and/or goat herders during FYs 2017, 2018, and 2019.

EXHIBIT 2—DISTRIBUTION OF PERIOD OF NEED FOR UNIQUE CERTIFIED EMPLOYERS OF NON-SHEEP/GOAT HERDING BY YEAR

[FY 17–19]

Period of need (days)	Year		
	2017	2018	2019
0–70	5	5	10
71–140	15	16	17
141–210	10	10	7
210–299	27	47	48
300–308	72	103	107
>308	0	0	0
Number of Unique Employers	129	181	189
Average Period of Need	254	260	257

Transfer payments were calculated by identifying unique employers engaged in non-sheep and/or goat herding from FYs 2017, 2018, and 2019.[20] The Department then identified employers within this group of unique employers whose applications contained periods of need between 300 and 308 days. The Department identified this subset because some employers whose applications contained periods of need that fall within this range are likely to extend their period of need up to a year, or longer in extraordinary circumstances, if they can demonstrate their need is temporary in nature (*e.g.,* their need is not for recurring year-round activities). The Department expects that a small number of employers of non-sheep and/or goat herders will extend their period of need beyond 10 months. For this analysis, the Department conservatively assumes that no more than 10 percent of the unique employers who were identified to have a period of need between 300 and 308 days will apply, and be approved by OFLC, to extend their period of temporary need beyond a 10-month period.[21] In the NPRM, the Department sought public comment regarding the assumptions on the percentage of unique employers affected. As discussed above, some commenters noted that changes in how an employer describes the services or labor needed, including the period of employment, on new applications filed under this rule may demonstrate compliance with § 655.103(d) rather than changes in the temporary (or seasonal) nature of an employer's labor needs. Based on OFLC's performance data, the Department estimated the impact of extending the period of need by multiplying the number of workers certified for each of the unique non-sheep and/or goat herding employers by the basic rate of pay offered to these workers each year. The figures for each year were then multiplied by 2 in order to estimate the impact from an additional 2 months of need, which yields an annualized transfer of $95,556 at a discount rate of 7 percent and $91,983 at a discount rate of 3 percent.

The second category of transfers associated with this final rule is an employee to employer transfer incurred due to potential reductions in sheep and/or goat herding employers' period of need from a maximum of 364 days to 10 months or less for annually recurring applications.[22]

[20] Based on FYs 2017, 2018, and 2019 performance data obtained from OFLC, the Department estimates that the number of non-sheep and/or goat herding employers is unlikely to increase over the rule's 10-year time forecast.

[21] The Department assumes a small percentage of the unique employers who were identified to have a period of need between 300 and 308 days will apply to extend their period of temporary need beyond a 10-month period up to 1 year, or longer in extraordinary circumstances.

[22] The Department's analysis of employers of sheep and goat herders represents the transfer from employer to employee. The Department assumes

Exhibit 3 presents the distribution of the period of need on approved applications filed by unique employers of sheep and/or goat herders during FYs 2017, 2018, and 2019.

EXHIBIT 3—DISTRIBUTION OF PERIOD OF NEED FOR UNIQUE CERTIFIED EMPLOYERS OF SHEEP/GOAT HERDING BY YEAR
[FY 17–19]

Period of need (days)	Year		
	2017	2018	2019
0–70	0	2	3
71–140	1	4	9
141–210	6	5	3
210–299	4	7	7
>299	743	673	761
Number of Unique Employers	754	691	783
Average Period of Need	360	357	356

Transfer payments were calculated by identifying unique employers engaged in sheep and/or goat herding from FYs 2017, 2018, and 2019.[23] The Department identified employers within this group of unique employers whose applications contained a period of need of 300 days or more. Based on OFLC's performance data, the Department estimated the impact of reducing the period of eligibility by multiplying the number of workers certified for each of the unique sheep and/or goat herding employers by the basic rate of pay offered to these workers each year. The figures for each year were then multiplied by the number of days requested for the period of need of 300 days or more in order to estimate the impact from reducing the period of need to 10 months or less, which yields an annualized transfer of $8,424,308 at a discount rate of 7 percent and $8,109,380 at a discount rate of 3 percent.

ii. Benefits

By rescinding 20 CFR 655.215(b)(2), the Department standardizes the adjudication of temporary need under the H–2A program and aligns the Department's adjudication of the temporary or seasonal need of herder applications with the guidance DHS has implemented in the USCIS Policy Memorandum. Furthermore, the rescission of § 655.215(b)(2) better complies with pertinent provisions of the INA and the Departments' applicable implementing regulations that define when employment is of a ''temporary or seasonal nature.'' Therefore, this final rule aims to help ensure the employment of H–2A workers in herding and range livestock operations does not adversely affect the wages and working conditions of workers in the United States similarly employed.

B. Regulatory Flexibility Analysis and Small Business Regulatory Enforcement Fairness Act and Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 604. If the determination is that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. *Id.*

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. *See* 5 U.S.C. 605. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The Department collected industry data from the Bureau of Labor Statistics' Quarterly Census for Employment and Wage for FY 2020. This process allowed the Department to identify the number of entities impacted by this final rule for two North American Industry Classification System (NAICS) Codes that frequently request H–2A certification for herding and livestock production job opportunities: NAICS 112410: Sheep Farming, and NAICS 112111: Beef Cattle Ranching, and Farming. The Department was able to identify 9,329 establishments that are classified as part of the beef cattle ranching, and farming industry, and 233 Establishments that are classified as part of the sheep farming industry. Next, the Department used the Small Business Administration (SBA) size standards to classify the vast majority of these employers (approximately 99 percent) as small.

The Department has estimated the cost of the time to read and review the final rule. In addition, the Department assumes some employers will experience increased costs associated with changes in business operations, transportation, staffing turnover, and training requirements under this final rule.

The Department estimates that small businesses engaged in herding and livestock production will incur a one-time cost of $48.53 to familiarize themselves with the changes in this rule. Other costs that employers could incur are attributed to the potential need to adjust their staffing and business operations as well as employing more U.S. workers to offset the loss of H–2A workers. However, the Department does not expect that these costs will be

that in some instances employers will seek to replace H–2A employees who have met the period of need threshold with U.S. employees, which would constitute a transfer between H–2A employees and U.S. employees. This potential transfer could not be evaluated due to data limitations.

[23] Based on FYs 2017, 2018, and 2019 performance data obtained from OFLC.

significant. As discussed above, the Department reviewed the impacts of this final rule for two NAICS Codes that frequently request H–2A certification for herding and livestock production job opportunities: NAICS 112410: Sheep Farming, and NAICS 112111: Beef Cattle Ranching, and Farming.

The SBA estimates that revenue for a small business with NAICS Code 112410 is $1.0 million and for NAICS Code 112111 is $1.0 million. The rule familiarization cost of $48.53 will be far less than one percent of the average revenue for small businesses with the two NAICS Codes. Although the Department does not anticipate the final rule will have a significant adverse effect as employers have already adjusted to USCIS' policy memorandum, the Department acknowledges that some employers of sheep and goat herders may need to replenish their labor supply by hiring additional U.S. workers to account for the reduced period of need, petitioning for permanent workers through the appropriate visa programs as necessary, or extending the work schedule for U.S. workers that they employ. The Department did not receive any public comments on this Initial Regulatory Flexibility Analysis. The Department certifies that this rule will not have a significant impact on a substantial number of small entities affected.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections and their practical utility, the impact of paperwork and other information collection burdens imposed on the public, and how to minimize those burdens. This final rule does not require a collection of information subject to approval by OMB under the PRA, or affect any existing collections of information.

D. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this final rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking pursuant to the Congressional Review Act, Public Law 104–121, sec. 251, 110 Stat. 868, 873 (codified at 5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in $100 million or more in expenditures (adjusted annually for inflation) in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector. A Federal mandate is defined in 2 U.S.C. 658, in part, as any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments, or the private sector. Following consideration of these factors, the Department has concluded that this final rule contains no unfunded Federal mandates, including no ''Federal intergovernmental mandate'' or ''Federal private sector mandate.''

This final rule will not exceed the $100 million in expenditures in any 1 year when adjusted for inflation, and this rulemaking does not contain such a mandate. The requirements of Title II of the UMRA, therefore, do not apply, and the Department is not required to prepare a statement under the UMRA.

F. Executive Order 13132, Federalism

The Department has concluded that this final rule does not have federalism implications, because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, E.O. 13132 requires no further agency action or analysis.

G. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

After consideration, the Department has determined that this final rule will not result in ''tribal implications,'' because it will not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and tribal governments. Accordingly, E.O. 13175 requires no further agency action or analysis.

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Employment, Employment and training, Enforcement, Foreign workers, Forest and forest products, Fraud, Health professions, Immigration, Labor, Longshore and harbor work, Migrant workers, Nonimmigrant workers, Passports and visas, Penalties, Reporting and recordkeeping requirements, Unemployment, Wages, Working conditions.

For the reasons set forth above, the Department amends part 655 of title 20 of the Code of Federal Regulations as follows:

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n) and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

§ 655.215 [Amended]

■ 2. Amend § 655.215 by removing paragraph (b)(2) and redesignating paragraph (b)(3) as paragraph (b)(2).

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–26211 Filed 12–15–21; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2021–N–0896]

Medical Devices; Neurological Devices; Classification of the Traumatic Brain Injury Eye Movement Assessment Aid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the traumatic brain injury eye movement assessment aid into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the traumatic brain injury eye movement assessment aid's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective December 16, 2021. The classification was applicable on December 28, 2018.

FOR FURTHER INFORMATION CONTACT: Patrick Antkowiak, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4254, Silver Spring, MD 20993–0002, 240–402–3705, *Patrick.Antkowiak@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the traumatic brain injury eye movement assessment aid as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On December 22, 2017, FDA received Oculogica, Inc.'s request for De Novo classification of the EyeBOX®. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see section 513(a)(1)(B) of the FD&C Act). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 28, 2018, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 882.1455.[1] We have named the generic type of device traumatic brain injury eye movement assessment aid, and it is identified as a prescription device that uses a patient's tracked eye movements to provide an interpretation of the functional condition of the patient's brain. This device is an assessment aid that is not intended for standalone detection or diagnostic purposes.

FDA has identified the following risks to health associated specifically with this type of device and the measures

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

required to mitigate these risks in table 1.

TABLE 1—TRAUMATIC BRAIN INJURY EYE MOVEMENT ASSESSMENT AID RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Incorrect or misinterpreted results, including: • False positive: Brain injury when in fact none is present • False negative: No brain injury when in fact brain injury is present.	Clinical performance testing; Software verification, validation, and hazard analysis; and Labeling.
Interference with other devices	Electromagnetic compatibility (EMC) testing; and Software verification, validation, and hazard analysis.
Electrical shock or burn	Electrical safety testing; and Software verification, validation, and hazard analysis.
Adverse tissue reaction	Biocompatibility evaluation.
Eye hazard or injury	Light hazard assessment.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

At the time of classification, traumatic brain injury eye movement assessment aids are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

While this final order contains no collection of information, it establishes special controls that refer to previously approved FDA collections of information found in other FDA regulations and guidance. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this order. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 882

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 882.1455 to subpart B to read as follows:

§ 882.1455 Traumatic brain injury eye movement assessment aid.

(a) *Identification.* A traumatic brain injury eye movement assessment aid is a prescription device that uses a patient's tracked eye movements to provide an interpretation of the functional condition of the patient's brain. This device is an assessment aid that is not intended for standalone detection or diagnostic purposes.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Clinical performance data under anticipated conditions of use must evaluate tracked eye movement in supporting the indications for use and include the following:

(i) Evaluation of sensitivity, specificity, positive predictive value, and negative predictive value using a reference method of diagnosis;

(ii) Evaluation of device test-retest reliability; and

(iii) A description of the development of the reference method of diagnosis, which may include a normative database, to include the following:

(A) A discussion of how the clinical work-up was completed to establish the reference method of diagnosis, including the establishment of inclusion and exclusion criteria; and

(B) If using a normative database, a description of how the ''normal'' population was established, and the statistical methods and model assumptions used.

(2) Software verification, validation, and hazard analysis must be performed. Software documentation must include a description of the algorithms used to generate device output.

(3) Performance testing must demonstrate the electrical safety and electromagnetic compatibility (EMC) of the device.

(4) The patient-contacting components of the device must be demonstrated to be biocompatible.

(5) A light hazard assessment must be performed for all eye-tracking and visual display light sources.

(6) Labeling must include:

(i) A summary of clinical performance testing conducted with the device, including sensitivity, specificity, positive predictive value, negative predictive value, and test-retest reliability;

(ii) A description of any normative database that includes the following:

(A) The clinical definition used to establish a ''normal'' population and the specific selection criteria;

(B) The format for reporting normal values;

(C) Examples of screen displays and reports generated to provide the user results and normative data;

(D) Statistical methods and model assumptions; and

(E) Any adjustments for age and gender.

(iii) A warning that the device should only be used by trained healthcare professionals;

(iv) A warning that the device does not identify the presence or absence of traumatic brain injury or other clinical diagnoses;

(v) A warning that the device is not a standalone diagnostic; and

(vi) Any instructions to convey to patients regarding the administration of the test and collection of test data.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27227 Filed 12–15–21; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA–HQ–OAR–2021–0868; FRL–9251–01–OAR]

Findings of Failure To Submit State Implementation Plan Revisions for the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to find that the states of New York and Pennsylvania failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (CAA) in a timely manner to address reasonably available control technology (RACT) requirements associated with the 2016 Oil and Natural Gas Industry Control Techniques Guidelines (CTG) for reducing volatile organic compounds (VOC). The RACT requirements associated with the CTG apply in certain nonattainment areas for the 2015 ozone National Ambient Air Quality Standards (NAAQS) and in states in the Ozone Transport Region (OTR). Both New York and Pennsylvania are in the OTR. This action triggers certain CAA deadlines for the EPA to impose sanctions if a state does not submit a complete SIP addressing the outstanding requirements and for the EPA to promulgate a Federal Implementation Plan (FIP) if the EPA does not approve the state's SIP revision.

DATES: This action is effective on January 18, 2022.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to Bob Lingard, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code: C539–01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709; by telephone (919) 541–5272; or by email at *lingard.robert@epa.gov*.

SUPPLEMENTARY INFORMATION:

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- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority and Low Income Populations
- K. Congressional Review Act (CRA)
- L. Judicial Review

B. Notice and Comment Under the Administrative Procedure Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making findings of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions to meet the requirement. Thus, notice and public procedures are unnecessary to take this action. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

C. How can I get copies of this document and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0868. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, William Jefferson Clinton Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Docket Center staff will continue to provide remote customer service via email, phone, and webform. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566–1742. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets*.

D. Where do I go if I have specific state questions?

For questions related to specific states mentioned in this notice, please contact the appropriate EPA Regional office:

Regional offices	States
EPA Region 2: Mr. Kirk Wieber, Chief, Air Program Branch, EPA Region 2, 290 Broadway, New York, New York 10007. *wieber.kirk@epa.gov*.	New York.
EPA Region 3: Mike Gordon, Chief, Planning and Implementation Branch, EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. *gordon.mike@epa.gov*.	Pennsylvania.

II. Background

On October 26, 2015, the EPA strengthened the NAAQS for ozone to establish new 8-hour standards.[1] In that action, the EPA promulgated identical revised primary and secondary ozone standards, designed to protect public health and welfare, of 0.070 parts per million (ppm). Those standards are met when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration (an area's ''design value'') is less than or equal to 0.070 ppm.[2]

Promulgation of a revised NAAQS triggers a requirement for the EPA to designate areas of the country as nonattainment, attainment, or unclassifiable for the standards, as well as, for the ozone NAAQS, a requirement for the EPA, at the same time, to classify any nonattainment areas.[3] Ozone nonattainment areas are classified upon designation based on the severity of their ambient ozone levels, as determined based on an area's design value for the most recent 3 years. The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme.[4] Nonattainment areas with a ''lower'' classification (*e.g.,* Marginal) have ozone levels that are closer to the standards than areas with a ''higher'' classification (*e.g.,* Severe).[5]

On June 4, 2018, and July 25, 2018, respectively, the EPA issued two separate rules that cumulatively designated areas throughout the country as nonattainment for the 2015 ozone NAAQS, effective August 3, 2018, and September 24, 2018, and established classifications for the designated nonattainment areas.[6] Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182. States in the OTR are subject to the requirements outlined in CAA section 184.[7] CAA section 172(c)(1) provides that SIPs for nonattainment areas must include reasonably available control technology (RACT), including RACT for existing sources of emissions. CAA section 182(b)(2)(A) requires states in which a nonattainment area classified as Moderate is located to amend their SIP ''to include provisions to require the implementation of [RACT] . . . with respect to . . . [e]ach category of VOC sources in the area covered by a CTG document . . .'' CAA sections 182(c) through (e) apply this requirement to states with designated ozone nonattainment areas classified as Serious, Severe, or Extreme. CAA section 184(b) provides that states in the OTR must submit a SIP revision addressing RACT with respect to all sources of VOCs in the OTR covered by a CTG document. The states of New York and Pennsylvania are both included in the OTR and thus are subject to the CTG RACT requirements of CAA section 184(b). In addition to being included in the OTR, the state of New York contains portions of a multi-state nonattainment area classified as Moderate for the 2015 ozone NAAQS and is thus independently subject to the CTG RACT requirement due to CAA section 182(b)(2)(A). The relevant nonattainment area is called the New York-Northern New Jersey-Long Island, NY–NJ–CT ozone nonattainment area.

On October 27, 2016, the EPA issued a final CTG document for reducing VOC emissions from existing oil and natural gas industry equipment and processes.[8] On March 9, 2018, for reasons explained in the **Federal Register** (83 FR 10478), the EPA proposed to withdraw the CTG. However, the EPA did not finalize the proposal to withdraw the CTG. The EPA announced in the U.S. Office of Management and Budget's Spring 2020 Unified Agenda and Regulatory Plan that ''the CTG will remain in place as published on October 27, 2016.'' [9]

The RACT SIP revisions addressing the 2016 oil and natural gas industry CTG, among other things, were due for EPA review from states with nonattainment areas classified as Moderate or higher for the 2015 ozone NAAQS, as well as the 12 states and the District of Columbia that comprise the OTR, by August 3, 2020.[10] For nonattainment areas and/or states subject to this RACT SIP requirement without any oil and natural gas sources covered by the CTG in their jurisdictions, states were required to make a SIP submission that could be comprised of a ''negative declaration'' stating as much.

Pursuant to CAA section 110(k)(1)(B), the EPA must determine no later than 6 months after the date by which a state is required to submit a SIP whether a state has made a submission that meets the minimum completeness criteria established pursuant to CAA section 110(k)(1)(A). These criteria are set forth at 40 CFR part 51, appendix V. The EPA refers to the determination that a state has not submitted a SIP submission that meets the minimum completeness criteria as a ''finding of failure to submit.''

The following Table 1 provides the names of states with nonattainment areas and/or OTR states that this action finds failed to submit the SIP revision required for the CTG for the 2015 ozone NAAQS for reducing VOC emissions from existing oil and natural gas industry equipment and processes as of the date of this action.

[1] 80 FR 65292 (October 26, 2015).

[2] 40 CFR 50.15.

[3] CAA sections 107(d)(1) and 181(a)(1).

[4] CAA section 181(a)(1).

[5] *See* 40 CFR 51.1303 for the design value thresholds for each classification for the 2015 ozone NAAQS.

[6] 83 FR 25776 (June 4, 2018) and 83 FR 35316 (July 25, 2018).

[7] CAA section 184(a) establishes a single OTR comprised of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia.

[8] 81 FR 74798 (October 27, 2016).

[9] *See https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=2060-AT76* (last accessed October 14, 2020).

[10] 83 FR 62998 (December 6, 2018), *see* also 40 CFR 51.1312 and 51.1316.

TABLE 1—STATES AND/OR NONATTAINMENT AREAS INCLUDED IN FINDINGS OF FAILURE TO SUBMIT REQUIRED SIP REVISIONS TO ADDRESS THE 2016 OIL AND NATURAL GAS INDUSTRY CTG FOR THE 2015 OZONE NAAQS

State	Nonattainment area/OTR state	Classification	EPA Region
NY	NY portion of New York-N New Jersey-Long Island nonattainment area.	Serious	2
NY	NY—OTR state	OTR	2
PA	PA—OTR state	OTR	3

III. Consequences of Findings of Failure To Submit

If the EPA finds that a state has failed to make the required SIP submittal or that a submitted SIP is incomplete, then CAA section 179(a) establishes specific consequences, after a period of time, including the imposition of mandatory sanctions for the affected area or state (as appropriate in the case of the OTR). Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a FIP no later than 2 years after issuance of the finding of failure to submit if the affected state has not submitted, and the EPA has not approved, the required SIP submittal.

If the EPA has not affirmatively determined that a state has made the required complete SIP submittal for an area or OTR state within 18 months of the effective date of this rulemaking, then, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) will apply in the affected nonattainment area or OTR state. If the EPA has not affirmatively determined that the state has made the required complete SIP submittal within 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected nonattainment area, in accordance with CAA section 179(b)(1) and 40 CFR 52.31.[11] The sanctions will not take effect if, within 18 months after the effective date of these findings, the EPA affirmatively determines that the state has made a complete SIP submittal addressing the deficiency for which the finding was made. Additionally, if the state makes the required SIP submittal and the EPA takes final action to approve the submittal within 2 years of the effective date of these findings, the EPA is not required to promulgate a FIP for the affected nonattainment area or OTR state.

[11] For the OTR states, such highway sanctions would only apply in nonattainment areas. If the OTR state does not contain any nonattainment areas, then the highway sanctions would not apply in that state.

IV. Findings of Failure To Submit for States That Failed To Make a Nonattainment Area and/or Ozone Transport Region SIP Submittal

Based on a review of SIP submittals received and deemed complete as of the date of signature of this action, the EPA finds that the states listed in Table 1 above failed to submit the 2016 Oil and Gas CTG RACT SIP revisions required under subpart 2 of part D of Title I of the CAA and that were due no later than August 3, 2020, for the listed nonattainment areas and OTR states.

V. Environmental Justice Considerations

The EPA believes that the human health or environmental risks addressed by this action will not have disproportionately high or adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not directly affect the level of protection provided to human health or the environment under the 2015 ozone NAAQS. The purpose of this action is to make findings that the named states failed to provide the identified SIP submissions to the EPA that are required per the CAA. As such, this action does not directly affect the level of protection provided for human health or the environment. Moreover, it is intended that the actions and deadlines resulting from this notice will in fact lead to greater protection for U.S. citizens, including minority, low-income, or indigenous populations, by ensuring that states meet their statutory obligation to develop and submit SIPs to ensure that areas make progress toward reducing ozone pollution.

VI. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA. This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for states to submit SIPs under sections 172, 182, and 184 which address the statutory requirements that apply to areas designated as nonattainment for the ozone NAAQS and to states within the Ozone Transport Region, respectively.

C. Regulatory Flexibility Act (RFA)

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The rule is a finding that the named states have not made the necessary SIP submission for certain nonattainment areas and/or states in the OTR to meet the requirements of part D of Title I of the CAA.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate as described in UMRA 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule finds that two states have failed to submit SIP revisions that satisfy the nonattainment area planning requirements under

sections 172 and 182 of the CAA, and/or the OTR requirements under section 184 of the CAA. No tribe is subject to the requirement to submit an implementation plan under section 172 or under subpart 2 of part D of Title I of the CAA. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is a finding that several states failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA, and/or the OTR requirements under Section 184, and does not directly or disproportionately affect children.

HI. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

IJ. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. In finding that two states have failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA, and/or the OTR requirements under section 184 of the CAA, this action does not directly affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

This final action is nationally applicable. To the extent a court finds this final action to be locally or regionally applicable, the EPA finds that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1). This final action consists of findings of failure to submit required SIPs from two states in the OTR, one with a Moderate nonattainment area, located in two of the ten EPA Regions, and in two different federal judicial circuits. This final action is also based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. For these reasons, this final action is nationally applicable or, alternatively, to the extent a court finds this action to be locally or regionally applicable, the Administrator has determined that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Intergovernmental relations, and Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

[FR Doc. 2021–27213 Filed 12–15–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0659; FRL–9322–01–OCSPP]

α-Terpineol (CAS No. 98–55–5); Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of α-terpineol (CAS No. 98–55–5) when used as a solvent inert ingredient in pesticide formulations at rates of 5% of the formulation in pre-harvest applications to crops. Landis International, Inc., on behalf of Morse Enterprises Limited, Inc. d/b/a KeyPlex submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of α-terpineol (CAS No. 98–55–5) on food or feed commodities when used in accordance with this exemption.

DATES: This regulation is effective December 16, 2021. Objections and requests for hearings must be received on or before February 14, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0659, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001.

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: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40*.

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0659 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0659, by one of the following methods.

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets*.

II. Petition for Exemption

In the **Federal Register** of October 21, 2021 (86 FR 58239) (FRL–8792–04), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11083) filed by Landis International, Inc., on behalf of Morse Enterprises Limited, Inc. d/b/a KeyPlex (P.O. Box 2515, Winter Park, FL 32790). The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of α-terpineol (CAS No. 98–55–5) when used as a solvent inert ingredient in pesticide formulations at rates not exceeding 5% of the formulation when applied pre-harvest to crops. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any public comments.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that EPA has determined that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but it does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its

validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure to α-terpineol, including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with α-terpineol follows.

A. Toxicological Profile

The acute oral and dermal toxicity of α-terpineol and related compounds is low. The acute oral LD_{50} (lethal dose) in rats is 2,830 milligrams/kilogram (mg/kg) for α-terpineol and 4,300 mg/kg for an α-terpineol/β-terpineol mixture. The dermal LD_{50} in rabbits for terpineol is >3,000 mg/kg. No acute inhalation, primary eye irritation or dermal sensitization studies are available in the database.

The repeated-dose toxicity for α-terpineol and related compounds is low. The only effects observed (decreased food intake, increased cholesterol and increased triacylglycerol) occurred at the limit dose following treatment with α-terpineol for 14 days. No adverse effects were observed in a 20-week rat study with α-terpenyl acetate or in a combined repeated dose with reproduction/developmental screening study in rats with terpineol.

No oral chronic or carcinogenicity studies are available for α-terpineol. However, there are no structural alerts for carcinogenicity for α-terpineol and there was no evidence of increased lung tumor incidence in mice treated intraperitoneally with α-terpineol for 20 weeks, when compared to controls. There is also low concern for genotoxicity or mutagenicity, based on negative results in mammalian genotoxicity tests and most Ames tests.

Neurotoxicity and immunotoxicity toxicity studies are not available for review. However, no evidence of neurotoxicity or immunotoxicity is seen in the available studies.

B. Toxicological Points of Departure/Levels of Concern

No toxicological endpoint of concern for α-terpineol has been identified in the database.

C. Exposure Assessment

1. Dietary exposure. Dietary exposure (food and drinking water) may occur from the proposed uses of α-terpineol (*e.g.,* eating foods treated with pesticide formulations containing α-terpineol, and drinking water exposures). There is also potential for non-pesticide dietary exposure since α-terpineol is a natural constituent of orange juice and is also used as a food additive. However, no endpoint of concern was identified. Therefore, an acute or chronic dietary exposure assessment is not necessary for α-terpineol.

2. Residential exposure. The proposed pre-harvest use of α-terpineol in crops is not anticipated to result in residential exposure. Residential exposure to α-terpineol may occur from existing pesticide uses as well as from non-pesticide products that may be used in and around the home, such as cosmetics, perfumes, toiletries, and cleaning products. However, based on the absence of a toxicological endpoint of concern, a quantitative assessment for residential exposure was not performed.

3. Cumulative effects from substances with a common mechanism of toxicity. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not made a common mechanism of toxicity finding as to α-terpineol and any other substances and α-terpineol does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that α-terpineol has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA concludes that a different margin of safety will be safe for infants and children. As part of its qualitative assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children. Based on the low toxicity of α-terpineol in the available studies, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on α-terpineol, EPA has determined that there is a reasonable certainty that no harm to the general population or any population subgroup, including infants and children, will result from aggregate exposure to α-terpineol residues. Therefore, the establishment of an exemption from the requirement of a tolerance under 40 CFR 180.920 for residues of α-terpineol when used as a solvent inert ingredient in pesticide formulations at rates of 5% of the formulation in pre-harvest applications to crops is safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of α-terpineol in or on any food commodities. EPA is establishing a limitation on the amount of α-terpineol that may be used in pesticide formulations applied pre-harvest. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 5% α-terpineol in the final pesticide formulation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for α-terpineol.

VI. Conclusion

Taking into consideration all available information on α-terpineol, EPA has determined that there is a reasonable certainty that no harm to the general population or any population subgroup, including infants and children, will result from aggregate exposure to α-terpineol residues. Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for α-terpineol when used as an inert ingredient at no more than 5% of the total pesticide formulation.

VII. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 10, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.920, amend the table by adding a table heading and in alphabetical order the inert ingredient ''α-terpineol (CAS Reg. No. 98–55–5)'' to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO 180.920

Inert ingredients	Limits	Uses
* * *	* * *	*
α-terpineol (CAS Reg. No. 98–55–5)	Not to exceed 5% in pesticide formulations	Solvent.
* * *	* * *	*

[FR Doc. 2021–27179 Filed 12–15–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170413393–8487–02]

RTID 0648–XB607

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Commercial Quota Holdback in the Gulf of Mexico

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

ACTION: Temporary rule; commercial quota holdback.

SUMMARY: NMFS issues this temporary rule to withhold a portion of the red grouper commercial allocation for the 2022 fishing year in anticipation of an upcoming rulemaking that would, among other measures, reduce the commercial annual catch limit (ACL) and annual catch target (ACT) through Amendment 53 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This action would withhold the distribution of red grouper and gag multi-use individual fishing quota (IFQ) allocation on January 1, 2022, in the amount equal to the anticipated reduction in the allocation for shareholders in the groupers and tilefishes IFQ (GT–IFQ) program.

DATES: This temporary rule is effective from 12:01 a.m., local time, on January 1, 2022, through 12:01 a.m., local time, on June 1, 2022.

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *peter.hood@noaa.gov.*

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

The Council has submitted Amendment 53 to the FMP for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce (Secretary), Amendment 53 would modify the allocation of Gulf red grouper catch between the commercial and recreational sectors, specify a lower overfishing limit and acceptable biological catch, and reduce both sectors' ACLs and ACTs. The final rule for Amendment 53 is not expected to be effective until after January 1, 2022, but prior to June 1, 2022. With respect to the commercial ACL and ACT, Amendment 53 proposes to reduce the current commercial ACL from 3.16 million lb (1.43 million kg) to 2.53 million lb (1.15 million kg) and the current commercial ACT from 3.00 million lb (1.36 million kg) to 2.40 million lb (1.09 million kg).

Amendment 36A to the FMP addressed how to distribute allocation to IFQ shareholders in years in which there is an anticipated reduction of the commercial allocation (83 FR 27297; June 12, 2018). This situation would generally occur if the Council approved an action to reduce the commercial allocation for any IFQ species or multi-species share category but NMFS could not complete the associated rulemaking before January 1, the start of the fishing year. Under the GT–IFQ program, annual allocation is distributed to IFQ shareholders on January 1, and most IFQ program participants begin to use or transfer their allocation early in each year. After shareholders begin transferring or landing allocation, NMFS is not able to retroactively withdraw allocation from shareholder accounts if a commercial quota decrease became effective after the beginning of the fishing year. Thus, Amendment 36A and the regulations at 50 CFR 622.22(a)(4) allow NMFS to anticipate a decrease in the commercial allocation of GT–IFQ species or multi-species share categories after the start of a fishing year and withhold distribution of allocation equal to the amount of the expected decrease. NMFS would distribute the remaining portion of the annual allocation to shareholders on January 1. If the final rule to implement the associated commercial allocation reduction is not effective by June 1, 2022, then NMFS would distribute the withheld allocation back to the current shareholders, as determined on the date the withheld IFQ allocation is distributed.

The Amendment 53 notice of availability published on December 9, 2021, and solicits public comments through February 7, 2021 (86 FR 70078, December 9, 2021). NMFS anticipates publishing a proposed rule to implement Amendment 53 shortly with a 30-day public comment period. NMFS must approve, partially approve, or disapprove Amendment 53 by March 9, 2021 (16 U.S.C. 1854(a)). Therefore, to allow the catch limits in Amendment 53 to be effective for the 2022 fishing year, this temporary rule will withhold 0.60 million lb (0.27 million kg) from the commercial allocation of 3.00 million lb (1.36 million kg) on January 1, 2022. In addition, this temporary rule will withhold 30,048 lb (13,630 kg) from the commercial gag multi-use allocation of 159,582 lb (72,385 kg) on January 1, 2022. The gag multi-use quota is calculated by the following equation:

gag multi-use allocation = 100 * ((red grouper commercial ACL-red grouper commercial quota)) / (gag commercial quota)

where the gag commercial quota is 939,000 lb (425,923 kg). If NMFS disapproves Amendment 53 or Amendment 53 is not implemented by June 1, 2022, NMFS will distribute withheld red grouper and gag multi-use IFQ allocation to current shareholders based on the date the withheld IFQ allocation is distributed.

It is unnecessary to take any action with respect to the recreational ACL and ACT at this time because, if necessary, NMFS will constrain recreational landings to the applicable catch limit through a temporary rule during the 2022 fishing year to close the recreational sector. The analysis in Amendment 53 indicates that the earliest NMFS would expect to close the recreational sector would be the end of July 2022, with a closure most likely in November or December of 2022.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken under 50 CFR 622.22(a)(4), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866, and other applicable laws.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulation at 50 CFR 622.22(a)(4) has already has already been subject to notice and public comment, and the public is aware that NMFS is reviewing Amendment 53 for approval and implementation. Therefore, all that remains is to notify the public that a portion of the commercial Gulf red grouper and the gag multi-use IFQ allocation in 2022 will be withheld to allow for the implementation of

Amendment 53 in 2022, if approved. Such procedures are contrary to the public interest because notice and comment would require delaying the reduction in the commercial and recreational ACLs and ACTs specified in Amendment 53 until 2023. If NMFS does not withhold the necessary commercial red grouper and multi-use IFQ allocation, shareholders can begin transferring or landing allocation on January 1, 2022, and NMFS would not be able to retroactively withdraw allocation from shareholder accounts. Delaying implementation of Amendment 53 until 2023 would allow harvest in excess of the level supported by the best scientific information available and recommended by the Council's Scientific and Statistical Committee.

For the aforementioned reasons, the NMFS Assistant Administrator also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 1801 *et seq.*

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

Dated: December 13, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27249 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XB635]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; quota adjustment and closure of the Atlantic bluefin tuna General category December fishery for 2021.

SUMMARY: NMFS adjusts the Atlantic bluefin tuna (BFT) General category December 2021 subquota by adding 15.5 metric tons (mt) of quota remaining from the September and October through November subquotas resulting in a total adjusted December subquota of 54.6 mt and simultaneously closes the General category fishery for large medium and giant (*i.e.,* measuring 73 inches (185 centimeters)) curved fork length or greater) BFT for the December subquota time period, and thus for the remainder of 2021. This action applies to Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: The quota adjustment is effective December 13, 2021, through December 31, 2021. The closure is effective 11:30 p.m., local time, December 14, 2021, through December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., *larry.redd@noaa.gov,* 301–427–8503, Nicholas Velseboer, *nicholas.velsboer@noaa.gov,* 978–281–9260, or Thomas Warren, *thomas.warren@noaa.gov,* 978–281–9347.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

Under § 635.28(a)(1), NMFS files a closure action with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on or after the effective date and time of a closure notice for that category until the opening of the relevant subsequent quota period or until such date as specified.

The 2021 baseline quota for the General category is 555.7 mt. The General category baseline subquota for the December time period is 28.9 mt. Effective January 1, 2021, NMFS transferred 19.5 mt of BFT quota from the December 2021 subquota time-period to the January through March 2021 subquota time-period resulting in an adjusted subquota of 9.4 mt for the December 2021 time period (85 FR 83832, December 23, 2020). NMFS recently transferred 9.5 mt of Reserve category and 20.2 mt from the Harpoon category to the General category resulting in an adjusted December subquota of 39.1 mt (86 FR 66975, November 24, 2021). Based on landings data received to date, NMFS has determined that the adjusted September and October through November time period subquotas were underharvested by 10.7 mt and 4.8 mt, respectively. Thus, 15.5 mt remains available from previous time periods.

Quota Adjustment

Under § 635.27(a)(1)(ii), NMFS has the authority to adjust each period's apportionment based on overharvest or underharvest in the prior period, after considering determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota adjustment. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years) and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). To date, preliminary landings data indicate that the General category September fishery landed 196.6 mt of the adjusted 207.3 mt subquota (86 FR 51016, September 14, 2021) before closing, resulting in an underharvest of 10.7 mt (207.3 mt—196.6 mt = 10.7 mt) and the October through November fishery landed 207.4 mt of the adjusted 212.2 mt subquota (86 FR 54873, October 5, 2021) by the end of the October through November time period, resulting in an underharvest of 4.8 mt (212.2 mt—207.4 mt = 4.8 mt). Adjusting the December 2021 subquota by adding the September

and October through November subquotas underharvest of 15.5 mt (10.7 mt + 4.8 mt = 15.5 mt) would result in a total of 54.6 mt (39.1 mt + 15.5 mt = 54.6 mt) being available to the General category in December. Without a quota adjustment at this time, NMFS would likely need to close the General category fishery immediately, and participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate at this time of year.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors, such as the restrictions that some dealers placed on their purchases of BFT from General category participants this year. Thus, this quota adjustment would allow fishermen to take advantage of the availability of BFT on the fishing grounds and provide a reasonable opportunity to harvest available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the BFT fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2021 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. Earlier this year, NMFS took such an action to carryover the allowable 127.3 mt of underharvest from 2020 to 2021 (86 FR 54659, October 4, 2021). NMFS will need to account for 2021 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that based on anticipated underharvest due to landings of some quota categories being substantially less than the available quotas for those categories.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the adjustment on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This adjustment would be consistent with established quotas and subquotas, which are implemented consistent with ICCAT recommendations (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This quota adjustment is in line with the established management measures and stock status determinations. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to allow all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)). Specific to the General category, this includes providing opportunities equitably across all time-periods.

Given these considerations, NMFS is adjusting the General category December 2021 subquota by adding 15.5 mt of quota remaining from the September and October through November subquotas. Therefore, NMFS adjusts the General category December 2021 subquota to 54.6 mt.

Closure of the December 2021 General Category Fishery

As of December 13, 2021, reported landings for the General category December subquota time period total approximately 44 mt. Based on these landings data, as well as average catch rates and anticipated fishing conditions, NMFS projects the adjusted December 2021 subquota of 54.6 mt will be reached shortly. Therefore, retaining, possessing, or landing large medium or giant (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater) BFT by persons aboard vessels permitted in the Atlantic Tunas General category and HMS Charter/Headboat permitted vessels (while fishing commercially) must cease at 11:30 p.m. local time on December 14, 2021. The General category will automatically reopen January 1, 2022, for the January through March 2022 subquota time period. This action applies to Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT and is taken consistent with the regulations at § 635.28(a)(1). The intent of this closure is to prevent overharvest of the available December subquota.

Fishermen aboard General category permitted vessels and HMS Charter/Headboat permitted vessels may catch-and-release and tag and release BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/.*

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken pursuant to regulations at 50 CFR part 635, which were issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. This fishery is currently underway and delaying this action would be contrary to the public interest as it could result in BFT landings exceeding the adjusted December 2021 General category quota. Affording prior notice and opportunity

for public comment to implement the quota transfer is impracticable and contrary to the public interest as such a delay would likely result in an earlier closure of the fishery while fish are available on the fishing grounds. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 13, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27273 Filed 12–13–21; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[RTID 0648–XB643]

Pacific Island Fisheries; 2022 Northwestern Hawaiian Islands Lobster Harvest Guideline

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

ACTION: Notification of lobster harvest guideline.

SUMMARY: NMFS establishes the annual harvest guideline for the commercial lobster fishery in the Northwestern Hawaiian Islands (NWHI) for calendar year 2022 at zero lobsters.

DATES: Effective December 16, 2021.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS PIR Sustainable Fisheries, tel 808–725–5177.

SUPPLEMENTARY INFORMATION: NMFS manages the NWHI commercial lobster fishery under the Fishery Ecosystem Plan for the Hawaiian Archipelago. The regulations at 50 CFR 665.252(b) require NMFS to publish an annual harvest guideline for lobster Permit Area 1, comprised of Federal waters around the NWHI.

Regulations governing the Papahanaumokuakea Marine National Monument in the NWHI prohibit the unpermitted removal of monument resources (50 CFR 404.7), and establish a zero annual harvest guideline for lobsters (50 CFR 404.10(a)). Accordingly, NMFS establishes the harvest guideline for the NWHI commercial lobster fishery for calendar year 2022 at zero lobsters. Harvest of NWHI lobster resources is not allowed.

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

Dated: December 9, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27269 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 239
Thursday, December 16, 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 AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket ID FCIC–21–0007]

RIN 0563–AC75

Common Crop Insurance Regulations; Apple Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Apple Crop Insurance Provisions. The intended effect of this action is to provide policy changes to better meet the needs of the apple producers, to address program vulnerabilities that have caused increased loss ratios and rising premium costs, and to provide safeguards against fraud, waste, and abuse. The proposed changes will be effective for the 2023 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business February 14, 2022 and will be considered when the rule is to be made final.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and search for Docket ID FCIC–21–0007. Follow the instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency (RMA), U.S. Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205. In your comment, specify docket ID FCIC–21–0007.
- Comments will be available for viewing online at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7829; or email *francie.tolle@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIP) sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

FCIC proposes to amend the Common Crop Insurance Regulations by revising 7 CFR 457.158 Apple Crop Insurance Provisions to be effective for the 2023 and succeeding crop years.

The proposed changes to 7 CFR 457.158 Apple Crop Insurance Provisions are as follows:

1. Throughout the Crop Provisions, FCIC proposes to include a reference to a type listed in the actuarial documents. The type name proposed is ''Fresh (Combined),'' which is synonymous with type ''Fresh 111'' that policyholders are likely familiar with. FCIC proposes no changes to what is insurable under the type; the only proposed change is to the type name.

2. Section 1—FCIC proposes to add a definition of ''Apple Supplemental Report.'' This term and its definition are added because of proposed changes in section 3 and section 6.

FCIC proposes to add a definition of ''block.'' This term is used in the Crop Provisions but had not been defined.

FCIC proposes to revise the definition of ''damaged apple production.'' The current definition defines damaged apple production in two parts: (1) With respect to production insured under the base policy, damaged apple production is fresh or processing apple production that fails to grade U.S. No. 1 Processing or better; and (2) with respect to production insured under the Fresh Fruit Quality Adjustment (Quality Option), damaged apple production is fresh apple production that fails to grade U.S. Fancy or better. FCIC is proposing changes in the Quality Option that require production that grades U.S. #1 Processing or better but less than U.S. Fancy to be included in production to count at a reduced value; therefore, the proposed revisions to the definition of ''damaged apple production'' had to be the same for apples insured under the base policy and apples insured under the Quality Option. Due to these proposed changes, the second part of the definition of ''damaged apple production,'' which refers to the Quality Option, is proposed to be removed.

FCIC proposes to revise the definition of ''direct marketing.'' Direct marketing is the sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, buyer, or broker. The definition is being revised to provide two clarifications. The first is to state that production records are controlled exclusively by the policyholder. The second is to add a sentence clarifying that only the portion of the crop sold directly to consumers will be considered direct marketed.

FCIC proposes to revise the definition of ''fresh apple production.'' FCIC proposes to move paragraphs (1)(ii), (1)(iv) and (2) to Section 7, Insured Crop, because these paragraphs contain provisions that are more appropriately placed in that section. FCIC proposes to redesignate paragraph (1)(i) as (1), paragraph (1)(iii) as (3), revise redesignated paragraphs (1) and (3), and add a new paragraph (2). In redesignated paragraph (1), the definition contains a list of actions that the apples undergo to change them from their basic form. Even though ''dicing'' was not included in the list of actions, one could maintain that it was included in the catch-all ''etc.'' at the end of the list. However, FCIC received questions regarding whether ''dicing'' would be considered in this list of actions. To provide clarification, FCIC proposes to add the word ''dicing'' to the list of actions that would constitute changing apples from their basic form.

In new paragraph (2), FCIC proposes to clarify that apples sold for the processing market are not considered fresh apple production unless they were sold with a grade of U.S. Fancy or better. For example, apples sold for the slicer market or the hard cider market that are not sold with a grade of U.S. Fancy or better. According to the definition, as here pertinent, ''fresh apple production'' is apples that do not undergo any change in basic form. Slicer apples are, just as their name suggests, apples that are sliced, which is a change in basic form. Sales of slicer apples are currently allowed to be considered fresh if the sales price was commensurate with fresh apple sales. However, slicers are a processed apple, meaning they undergo a change in basic form. Similarly, apples sold to the hard cider market undergo a change in basic form. A contracted study completed at FCIC's request determined that prices for slicers are more commensurate with processing apples. Currently, apples sold as slicers can be insured as Fresh, thus qualifying for optional coverage under the Quality Option; however, they can be sold without a grade of U.S. Fancy, thus never being included in production to count, and contributing to high loss ratios in some areas. Under this proposed change, records indicating apples were sold as slicers or for hard cider will not be used to determine whether production meets the one-in-four fresh requirement under the Quality Option unless the apples were sold with a grade of U.S. Fancy or better.

FCIC also proposes to revise redesignated paragraph (3). The current provisions require producers to follow cultural practices generally in use for fresh apple acreage in the area in a manner generally recognized by agricultural experts. FCIC proposes to revise this paragraph to provide flexibility through Special Provisions to include additional cultural practices that may be required for acreage to meet the definition of ''fresh apple production.'' Examples of cultural practices may include specific spraying programs, hail netting, and wind machines or misting systems.

FCIC proposes to add a definition of ''fresh fruit factor.'' This term and its definition are added because of proposed changes made in section 14.

FCIC proposes to add a definition of ''graft.'' This term and its definition are added because of proposed changes made in section 7(f).

FCIC proposes to add a definition of ''high density.'' This term and its definition are added because of a proposed change in section 6.

FCIC proposes to add definitions of ''maximum additional value price'' and ''premium price election'' because of proposed changes made in section 3.

FCIC proposes to revise the definition of ''processing apple production.'' FCIC proposes to add the word ''dicing'' to the list of actions that would constitute changing apples from their basic form, to be consistent with the addition in the definition of ''fresh apple production.'' FCIC also proposes to remove the phrase ''failing to meet the insurability requirements for fresh apple production'' and add similar language to it in Section 7, Insured Crop, because this language contains provisions that are more appropriately placed in that section.

3. Section 2—FCIC proposes to designate the undesignated paragraph as paragraph (a) and revise the lead-in sentence in that paragraph to make two proposed changes. First, current provisions reference section 34(b) of the Basic Provisions. However, section 34(c) of the Basic Provisions is a more appropriate reference. Second, the current provisions are not clear whether producers can have optional units in addition to or instead of the optional unit offerings under the Basic Provisions. FCIC proposes to clarify that optional units by non-contiguous land or type may be established in addition to or instead of the optional unit provisions in the Basic Provisions.

FCIC proposes to redesignate paragraphs (a) and (b) as paragraphs (a)(1) and (2). FCIC proposes to revise redesignated paragraph (a)(2). This section currently allows optional units by type ''as specified in the Special Provisions.'' Currently, every county where apples are insured includes a Special Provisions statement that allows optional units by type. The ''as specified in the Special Provisions'' provided the flexibility to permit optional units by type by county. Since optional units by type are permitted in every county, FCIC proposes to remove the phrase ''as specified in the Special Provisions'' and simply allow optional units by type through the Crop Provisions. FCIC also proposes to add the phrase ''unless otherwise provided in the Special Provisions'' to allow flexibility through Special Provisions to alter this language if it is determined optional units by type should not be allowed in certain counties.

FCIC also proposes to add a new paragraph (b). Optional units by type are allowed in the Crop Provisions. However, the Crop Provisions do not address situations where more than one type is planted on the same acreage. For example, Granny Smith apples are often planted with other types of apples on the same acreage. In section 3, FCIC proposes to allow separate coverage levels and percentages of price elections by type. If optional units by type were not allowed in this situation, there would be a chance that AIPs would have to combine units resulting in different coverage levels and percentages of price elections within a single unit. To address this, FCIC proposes to add language that states the requirements of section 34 of the Basic Provisions that require the crop to be planted in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit are not applicable for optional units by type. This will allow separate optional units for types that do not have a clear and discernable planting pattern, such as situations where more than one type is planted on the same acreage. However, it is important that producers maintain separate records of production for each optional unit in accordance with section 12(a) of the Apple Crop Provisions.

4. Section 3—FCIC proposes to revise paragraph (a) to allow separate coverage levels by type. The current provisions allow producers who purchase additional coverage to only select separate coverage levels by fresh apple acreage and processing apple acreage. Fresh and processing are separate types; however, in addition to the general ''Fresh (Combined)'' type, there are three other fresh types listed in the actuarial documents that are classified as fresh: Varietal group A, varietal group B, and varietal group C. Under the current provisions, producers who insure apples under any of the fresh type must select the same coverage level for all of their fresh types. The proposed changes will provide producers the ability to select a separate coverage level for each fresh type and will allow producers, who purchase additional coverage, to structure their coverage based on the perceived risk associated with each fresh type. For example, the producer could select 90 percent coverage level for varietal group A and 70 percent coverage level for varietal group B.

FCIC proposes to revise paragraph (b) to replace the ''Special Provisions'' reference in two places with a reference to the ''actuarial documents'' because the provisions refer to the location of price elections. Actuarial documents are where the price elections are located, so actuarial documents are a more appropriate reference. FCIC also proposes to revise paragraph (b) to allow the price election percentage to differ among each type. The types may have

different characteristics with different risks. By allowing producers to select a different percentage of the price election by type, this change allows producers to manage premium costs based on their risks.

FCIC also proposes to add a sentence in paragraph (b) clarifying that the percentage of the price election producers elect must be in accordance with FCIC approved procedures based on the level of coverage elected. For example, if a producer elected 75 percent coverage level, FCIC approved procedures allow producers to choose a percentage of price election between 67 and 100 percent. FCIC also proposes to add similar to language in paragraph (a) regarding assigning coverage levels to acreage that is added after the acreage reporting date. The language added in paragraph (b) is added for guidance on assigning price election percentages to acreage added after the acreage reporting date.

FCIC proposes to redesignate paragraphs (c) and (d) as (d) and (e), respectively, and add a new paragraph (c) to provide producers an opportunity to insure at a price, called the premium price election, greater than the published price election for apples that are sold predominantly to a direct market or a premium processing market. Direct markets are often niche markets that demand higher prices than wholesale markets. FCIC's processing price is historically based upon standard juice processing prices and market prices for premium processing is not generally available to establish prices. The premium processing prices generally demand higher prices and include items such as baby food, which demands high-quality apples; or hard ciders, which have similar quality expectations as wineries. Additionally, slicers, which are apples often sold for school lunches, are a premium processing-priced apple and demand a price, on average, about 20 percent higher than the standard processing prices. This change addresses producers' concerns regarding the higher prices they receive for apples sold via direct marketing and premium processing apples (such as slicers). The premium price election will be based on the producer's history reported on the Apple Supplemental Report and the maximum additional value price published in the actuarial documents and only offered in specific areas, via Special Provision statements, where premium processors or direct markets are prevalent. The premium price election will be greater than the published price election for type ''Fresh (Combined)'' or type ''Processing,'' as applicable, and less than or equal to the maximum additional value price. In order to obtain the premium price election, producers must submit an Apple Supplemental Report to capture producers' production by fresh sales (including direct marketing sales) and processing sales. For data-gathering purposes, FCIC is also requiring producers to submit their revenue by fresh sales and processing sales to allow FCIC to maintain the program (*e.g.,* transitional yields and price elections) in light of data collected and reported by third-party organizations becoming scarce.

FCIC proposes to revise redesignated paragraph (e) to revise for clarity. The current provisions point back to specific situations that occur as outlined in redesignated paragraph (e). However, other situations, not addressed in redesignated paragraph (e), could occur that affect the yield used to establish the production guarantee. The current language limits the situations to those in redesignated paragraph (e). FCIC proposes to revise the language to refer to situations not necessarily specific to redesignated paragraph (e).

FCIC proposes to revise redesignated paragraph (e)(1). This paragraph addresses situations where any circumstance that may reduce the producer's yields from previous levels occurs before the insurance period. It is silent on the timeframe in which the producer notifies the AIP. However, in redesignated paragraph (e)(2), the producer notifies the AIP by the production reporting date. For consistency between the two paragraphs, FCIC proposes to add the same language in redesignated paragraph (e)(2) to (e)(1) regarding notification by the production reporting date.

FCIC also proposes to revise redesignated paragraph (e)(1) to remove the last sentence. This information is proposed to be incorporated into redesignated paragraph (e)(3).

FCIC proposes to revise redesignated paragraphs (e)(2) and (e)(3). The first sentence in each paragraph requires the producer to notify the AIP if a situation occurred or may occur after the beginning of the insurance period. While redesignated paragraph (e)(2) refers to situations when the producer notifies the AIP by the production reporting date and redesignated paragraph (e)(3) refers to situations when the producer fails to notify the AIP by the production reporting date, both paragraphs expect the producer to be aware of circumstances that have not occurred yet. Therefore, FCIC proposes to remove the phrase ''or may occur'' in both paragraphs.

FCIC also proposes to revise redesignated paragraph (e)(3) to add clarifying language in the last sentence. The last sentence says, ''We will reduce the yield used to establish your production guarantee for the subsequent crop year.'' To further clarify the purpose of the yield reduction in the subsequent crop year, FCIC proposes to add language that says the yield reduction will reflect any reduction in the productive capacity of the trees or the yield potential of the insured acreage. The proposed provisions in redesignated paragraph (e) consistent with provisions that FCIC recently added to other perennial crop policies, such as the Texas Citrus Fruit Crop Insurance Provisions. Adding these provisions is intended to remove potential ambiguity regarding the consequences when circumstances occur that will reduce the yield potential and to promote consistency with administration of similar policies.

FCIC proposes to add a new paragraph (f) to inform producers that they can insure fresh acreage in aggregate under type ''Fresh (Combined)'' or by other fresh types identified in the actuarial documents (*e.g.,* fresh varietal group types), not both. The type ''Fresh (Combined)'' includes all fresh varieties insured under the apple policy and the price offered for type ''Fresh (Combined)'' is an average price of all insurable varieties. Fresh varieties can also be insured under other types, either in groupings of specific varietals identified in the Special Provisions or individual varieties, if available in the county's actuarial documents. The fresh varieties insured in groupings of specific varietals identified in the Special Provisions or as individual varieties are insured at prices that are reflective of those smaller groupings. Under this proposed change, producers may insure all of their fresh acreage together under an umbrella of Fresh for an average price or they can insure groupings of fresh varieties and receive better prices by those groupings, if they have records to substantiate the separate varieties.

5. Section 6—FCIC proposes to designate the undesignated paragraph as paragraph (a). FCIC proposes to revise newly designated paragraph (a) to divide the paragraph into subparagraphs for ease of reading.

In paragraph (a)(1), FCIC proposes to make two changes. First, the word ''option'' is removed following ''Optional Coverage for Fresh Fruit Quality Adjustment'' because the word is redundant. Second, the reference to

''these Crop Provisions'' is struck for consistency, whereby only references to external documents are named by title.

FCIC proposes to revise newly designated paragraph (a)(2)(i). The current provisions state if producers designate fresh acreage on their acreage report then they are certifying that at least 50 percent of the production from fresh apple acreage in each unit was sold as fresh apples in one or more of the four most recent crop years in accordance with the definition of ''fresh apple production.''

FCIC also proposes to revise newly-designated paragraph (a)(2)(i) to replace the reference to the definition of ''fresh apple production'' with the reference to section 7(d). FCIC is proposing to move some provisions in the definition of ''fresh apple production'' to section 7(d). Therefore, the reference in newly-designated paragraph (a)(2)(i) needs to be updated to reflect the new location of the provisions in section 7(d).

FCIC proposes to add a new paragraph (a)(2)(ii) to require producers who wish to insure as fresh to submit an Apple Supplemental Report that captures their total production by all fresh types aggregated and the processing type. This supports the existing FCIC rule to insure as fresh, which is that at least one of the prior four years must have produced at least 50 percent of the fresh guarantee. This change also allows FCIC to collect data to assist in determining whether fresh production requirements under the policy should be adjusted in the future. Adjustments could include using the producer's historical percent sold as fresh, replace the one-in-four fresh requirement with the producer's historical percent of fresh sales, etc.

FCIC also proposes to revise newly-designated paragraph (a) to add a new paragraph (a)(2)(iii) to complement the proposed language in new paragraph (a)(2)(ii) regarding the Apple Supplemental Report. The language proposed to be added in new paragraph (a)(2)(iii) notifies the producer that failure to submit the Apple Supplemental Report will result in no coverage under any fresh types. The producer will be able to have coverage under the processing type.

FCIC also proposes to revise newly-designated paragraph (a) to add a new paragraph (a)(2)(iv) to an exception to the fresh apple production requirement mentioned in the above paragraph for high density acreage in the first year of insurability or in other circumstances as authorized by FCIC. First, high density acreage is established with the intent of producing fresh apples and FCIC recognizes that producers that invest in high density systems are intending to grow for fresh, but may not have the sales records in the first year of insurability to substantiate sales of fresh production. Therefore, it is not necessary to require high density acreage to meet the fresh apple production requirement for that first year of insurability. Second, allowing exceptions to the fresh apple production requirement in other circumstances as authorized by FCIC will provide FCIC to waive the fresh apple production requirement on a case-by-case basis if producers suffer exceptionally bad years (such as a year in which a natural disaster or other extreme weather occurs) which affected the end use of their apples that they intended to sell as fresh.

FCIC proposes to add a new paragraph (b) to require producers to notify the AIP 15 days prior to harvest if they intend to sell production via direct marketing so AIPs can perform the necessary preharvest inspections. Producers who sell production via direct marketing are required to notify AIPs prior to harvest if there is a loss. Currently, there is no provision that requires those producers to notify AIPs prior to harvest if there is no loss. By adding this provision, it provides AIPs an opportunity to conduct a preharvest appraisal when there is no loss.

6. Section 7—FCIC proposes to revise paragraph (d) to add language that was previously contained in the definition of ''fresh apple production.'' That language is better suited in this section than in the definition. Additionally, FCIC is proposing to revise the language that is moved to paragraph (d). The first proposed change is to replace a reference of ''unit'' with ''policy or unit, as applicable''. Over the years, FCIC received comments that producers find it difficult and inappropriate to maintain separate records by unit after the apple production has left the field. Producers pointed out that while they can and do maintain records of production by unit, once the apples are delivered to a warehouse, which is often a third party, for later sales and distribution it is virtually impossible and/or impractical to expect all the apples to be tracked by unit. In 2011, FCIC issued a Manager's Bulletin (MGR–11–015) that allowed producers who do not have separate records by unit of fresh apple production in one of the last four years but do have records of total fresh apple production may still be able to qualify for the fresh apple production requirement (at least 50 percent of the production from fresh apple acreage was sold as fresh apples in one or more of the four most recent crop years). MGR–11–015 authorized AIPs to consider records of total production (*e.g.,* by policy rather than by unit, if the producer could not provide records by unit) from one of the four most recent crop years that reflect fresh apple sales. FCIC is proposing to incorporate the guidance in MGR–11–015 by adding replacing ''unit'' with ''policy or unit, as applicable'' in paragraph (d).

The second proposed change in paragraph (d) is to add after the phrase ''one or more of the four most recent crop years'' the phrase ''preceding the previous crop year, unless authorized by FCIC.'' The proposed phrase aligns the one-in-four fresh requirement with the years proposed to be reported on the Apple Supplemental Report. Under the current provisions, the one-in-four fresh requirement is based on the four most recent crop years. For example, if the producer is purchasing crop insurance for the 2023 crop year, then the AIP would consider records from crop years 2019 through 2022. Under the proposed provisions, the Apple Supplemental Report is requesting information for the crop year prior to the previous crop year. Therefore, if the producer is purchasing crop insurance for the 2023 crop year, then producer would report information based on the 2021 crop year. The proposed changes in this paragraph are meant to align the information the producer reports on the Apple Supplemental Report with the last year in the one or more of the four most recent crop years.

FCIC also proposes to move language in paragraph (d) regarding ''processing apple production'' to a new paragraph (e) and add language that was previously contained in the definition of ''processing apple production.'' That language is better suited in this section than in the definitions.

FCIC also proposes to add a new paragraph (f) to allow for a reduced premium in certain circumstances. Currently, producers must report their acreage by the January 15th acreage reporting date, which is before they typically conduct routine orchard maintenance. Producers typically graft or remove apple trees after the acreage reporting date and into March. Those trees that are grafted or removed will not produce apples that crop year. This provision allows producers to either report the acreage as uninsurable as of the acreage reporting date; or receive a reduced premium rate to better reflect the condition of their orchards if they submit a revised acreage report by March 31st that trees were grafted or removed.

7. Section 9—FCIC proposes to revise paragraph (b)(3) to insert the following phrase at the beginning of the paragraph: ''Except as provided in section 28 of the Basic Provisions.'' Paragraph (b)(3) of the Apple Crop Provisions speaks only to relinquishing the producer's insurable share after the acreage reporting date and is silent on whether a transfer of coverage occurred to relinquish the insurable share. This paragraph implies that coverage ends on the date the producer relinquishes their share. It is not clear, as it is written, whether a transfer of coverage and right to indemnity was submitted and approved in accordance with section 28 of the Basic Provisions. To clarify that this provision only addresses situations when a transfer of coverage and right to indemnity is not approved, FCIC proposes to add the aforementioned phrase.

8. Section 11—FCIC proposes to revise paragraph (b)(2). This paragraph outlines the requirements for producers when any portion of the crop is direct marketed. FCIC proposes to revise this paragraph to make a few changes. First, the phrase ''15 days'' is proposed to be clarified to ''15 calendar days.'' Next, FCIC proposes to require, in the event any portion of the crop will be direct marketed, the producer to notify the AIP at least 15 calendar days before the crop is harvested. The current provisions require notification prior to when the crop is sold. The proposed revision allows for the AIPs to conduct pre-harvest appraisals. Lastly, FCIC proposes to make other changes within the paragraph for clarification purposes.

9. Section 12—FCIC also proposes to revise the claim example following paragraph (b).

FCIC also proposes to redesignate paragraph (c)(2) as (c)(3) and add a new paragraph (c)(2) to state that when 65 percent or more of a unit's processing apple production is damaged apple production, the processing apple production from the unit will not be considered production to count provided none of the processing apple production from the unit will be sold. Based on engagement with apple producers, FCIC was made aware that at certain thresholds of damage, processors will not accept apple production. In response to this feedback, FCIC proposes to allow for adjustments to processing production that reflect current industry standards.

10. Section 14—FCIC proposes to revise paragraph (b). The phrase ''this option provides for quality adjustment of fresh apple production'' reads more clearly when the word ''coverage'' is added between the words ''provides'' and ''for.''

FCIC proposes to revise paragraph (b)(1) to replace the phrase ''Catastrophic Risk Protection (CAT)'' with the acronym ''CAT.'' The acronym is spelled out earlier in the Crop Provisions, so it is only necessary here to use the acronym.

FCIC proposes to revise paragraph (b)(3). The current provisions say that apple acreage designated on your acreage report qualifies for the Optional Coverage for Fresh Apple Quality Adjustment. FCIC proposes to clarify that only fresh apple acreage qualifies for the option.

FCIC proposes to revise paragraph (b)(5) to make several changes. Where available, the Quality Option allows apple producers the option to purchase additional coverage that compensates them when their fresh apple production fails to grade U.S. Fancy or better due to an insurable cause of loss. The revisions to this paragraph clarify that production to count for apples is the greater of sold production adjusted according to the sliding scale in paragraph (b)(5) or adjusted for quality in paragraph (b)(6), instead of basing the determination on the sliding scale alone.

In paragraph (b)(5), FCIC also proposes to revise the sliding scale under which production to count is adjusted due to damage so that it is linear. A linear sliding scale is more appropriate than the current sliding scale which alternates from linear to non-linear back to linear again. The current sliding scale adjusts production in increments beginning at 21 percent damage and zeroing at 65 percent damage:

- The first increment is between 21 percent and 40 percent with a reduction of 2 percent for each full percent of damage in that range,
- The second 41 percent to 50 percent with a reduction of 3 percent for each full percent of damage in that range, and
- The third 51 percent to 64 percent with a reduction of 2 percent for each full percent of damage in excess of 50 percent.

The current sliding scale is not regionally appropriate. As proposed, the revised sliding scale would begin adjustments at 15 percent and reduce production to count by two percent for each full percent more than 15 percent. FCIC received producer feedback that the sliding scale should start at a lesser threshold of damage (15 percent rather than 20 percent). The only difference between the current sliding scale and the proposed one is when the range of production not grading U.S. Fancy or better is greater than 15 percent but less than 50 percent. After 50 percent, the current sliding scale and the proposed sliding scales are identical.

In paragraph (b)(6), the following proposed changes are necessary to address concerns regarding the high loss ratios and rising premium costs under the Quality Option. The high loss ratios are a result of producers' inability to maintain records to meet the requirements to qualify for the Quality Option and to settle claims, and climate and growing conditions in certain regions may limit the ability of producers in these areas to consistently produce U.S. Fancy grade.

- Production sold with a grade of U.S. Fancy or better will continue to be counted on a one-for-one basis.
- Production that grades U.S. #1 Processing or better but less than U.S. Fancy will be included in production to count at a reduced value by multiplying a fresh fruit factor to the sold marketable production as follows:
  - The fresh fruit factor applies to production sold:
    - As fresh without a grade that exceeds what appraised as U.S. Fancy or better (prior to adjustments under the sliding scale);
    - Any production sold for fresh without a grade will be counted on a one-to-one basis not to exceed the production that appraised as U.S. Fancy or better (prior to adjustments under the sliding scale).
    - Any production sold for a grade below U.S. Fancy;
    - Any production sold as processing, excluding any production that grades less than U.S. #1 Processing.
  - For the basic coverage, all apples that are U.S. #1 Processing or better are included in production to count, without any further discounts for quality adjustment. Currently, for the Quality Option, all apples that are sold as U.S. Fancy or better are included as production to count. Not all sales indicate a grading standard and therefore a producer could claim that no fresh apples were sold as U.S. Fancy or better, even if the apples were sold as fresh. Therefore, a producer could ''double-dip'' on indemnity and sales from these apples. Adjustments to production under the Quality Option are not reflected in the producer's actual production history (APH); therefore, the guarantee does not accurately reflect expected production of fresh apples. The intent of the fresh fruit factor is to capture the reduced value of apples sold for other than U.S. Fancy or better so that the APH will more accurately reflect the producer's guarantee.

○ The fresh fruit factor will not be applied to any production that grades less than U.S. #1 Processing or better.

○ The fresh fruit factor will be published in the actuarial documents to account for regional differences.

FCIC proposes to revise paragraph (c). The current provisions state any production not graded or appraised prior to the earlier of the time apples are placed in storage or the date the apples are delivered to a packer, processor, or other handler will not be considered damaged apple production. According to the current definition of ''damaged apple production,'' damaged apple production under the Quality Option is anything that fails to grade U.S. Fancy or better. In other words, the aforementioned production will be considered U.S. Fancy or better. As stated earlier, FCIC is proposing to remove the portion of the definition that refers to the Quality Option. Therefore, paragraph (c) needs to be revised so that the provision has the same meaning as before: Any production not graded or appraised prior to the earlier of the time apples are placed in storage or the date the apples are delivered will be considered U.S. Fancy or better.

FCIC proposes to add a new paragraph (e) to address written agreements. The Quality Option is contained within the Crop Provisions, which confuses whether written agreements should apply to the Quality Option when written agreements are written on the Crop Provisions. The proposed language allows written agreements to apply to the Quality Option with three requirements: (1) The option may apply to a written agreement for apples when this option is contained in the actuarial documents for the county and crop; (2) the option may apply to apples in a county which does not have actuarial documents for the crop when a written agreement specifically allows this option; and (3) FCIC has the right to not allow this option on a written agreement in accordance with the provisions in section 18 of the Basic Provisions. This requirement also allows the producer to have coverage by written agreement on apple production insured under the Crop Provisions if the requirements for written agreement are not met on the Quality Option.

FCIC proposes to revise the claim example following new paragraph (e) to align with the proposed changes made throughout section 14.

Notice and Comment, and Exemptions

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption. Although not required by APA or any other law, FCIC has chosen to propose the regulatory changes and request comments on the changes prior to issuing a final rule.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 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). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 13563.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined

that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450—Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563–0053.

USDA Non-Discrimination Policy

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

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 or 844–433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Proposed Rule

For the reasons discussed above, FCIC proposes to amend 7 CFR part 457 to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Amend § 457.158 by:
■ a. Revising the introductory text;
■ b. In section 1:
■ i. Adding in alphabetical order the definitions for ''Apple Supplemental Report,'' ''block,'' ''fresh fruit factor,'' ''graft,'' ''high density,'' ''maximum additional value price,'' and ''premium price election'';
■ ii. Adding in the definition of ''Area A'', a comma after the words ''New Mexico''; and
■ iii. Revising the definitions for ''damaged apple production,'' ''direct marketing,'' ''fresh apple production,'' and ''processing apple production'';
■ c. Revising section 2;
■ d. Revising section 3;
■ e. Revising section 6;
■ f. In section 7:
■ i. Removing in paragraph (c), the word ''and'' at the end of the sentence;
■ ii. Revising paragraph (d); and
■ iii. Adding new paragraphs (e) and (f);
■ g. In section 9:
■ i. Removing in paragraph (b)(3), the word ''If'' at the beginning of the paragraph and adding the words ''Except as provided in section 28 of the Basic Provisions, if'' in its place;
■ h. Revising section 11 paragraph (b)(2);
■ i. In section 12:
■ i. Revising the example following paragraph (b) titled ''Basic Coverage Example'';
■ ii. Removing in paragraph (c)(1)(iv), the word ''; and'' at the end of the sentence and adding ''.'' in its place;
■ iii. Redesignating paragraph (c)(2) as (3), and adding a new paragraph (c)(2); and
■ j. Revising section 14.

The revisions and additions read as follows:

§ 457.158 Apple crop insurance provisions.

The apple crop insurance provisions for the 2023 and succeeding crop years are as follows:

* * * * *

1. Definitions

* * * * *

Apple Supplemental Report. A written report, supported by acceptable records, submitted as required on our form and in accordance with section 3 and section 6, as applicable. The information contained on the report will be based on your sales history, as applicable, from the crop year prior to the previous crop year (*e.g.,* on the production reporting date for the 2023 crop year, the Apple Supplement Report reflects total revenue from the 2021 crop year).

* * * * *

Block. Trees in an orchard of a single or mixed age and density, distinguished by applicable practice, type, T-Yield Map Areas, or other characteristics shown in the actuarial documents.

* * * * *

Damaged apple production. Fresh or processing apple production that fails to grade U.S. No. 1 Processing or better in accordance with the applicable grade standards due to an insurable cause of loss.

Direct marketing. The sale of the insured crop directly to consumers

without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, buyer, or broker. Production records are controlled exclusively by the policyholder. Examples of direct marketing include selling through an on-farm or roadside stand, a farmer's market, or permitting the general public to enter the field for the purpose of picking all or a portion of the crop. Only the portion of the crop sold directly to consumers will be considered direct marketed.

Fresh apple production. Apples:

(1) That are sold, or could be sold, for human consumption without undergoing any change in the basic form, such as peeling, juicing, crushing, dicing, etc.;

(2) That are not sold for the processing market (*e.g.,* slicer or hard cider market) except for apples sold with a grade of U.S. Fancy or better (unless another grade is specified in the Special Provisions); and

(3) That follow the recommended cultural practices generally in use for fresh apple acreage in the area in a manner generally recognized by agricultural experts and any other practices specified in the Special Provisions.

Fresh fruit factor. A factor contained in the actuarial documents that is used to account for the salvage value of sold apples for production insured under the Optional Coverage for Fresh Fruit Quality Adjustment contained in section 14.

* * * * *

Graft. To unite a shoot or bud with a rootstock in accordance with recommended practices to form a living union.

* * * * *

High density. The number of trees per acre and any other characteristics specified in the Special Provisions.

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Maximum additional value price. A price established by type by FCIC and published in the actuarial documents when authorized by the Special Provisions. It is used to compute the premium price election.

* * * * *

Premium price election. A price calculated using your sales history reported on the Apple Supplemental Report and the maximum additional value price. The premium price election will be no less than the published price election for type ''Fresh (Combined)'' or type ''Processing,'' as applicable, and no greater than the maximum additional value price.

Processing apple production. Apples from insurable acreage that are sold, or could be sold for the purpose of undergoing a change to the basic structure such as peeling, juicing, crushing, dicing, etc.

* * * * *

2. Unit Division

(a) In addition to, or instead of, establishing optional units as provided in section 34(c) of the Basic Provisions, optional units may be established if each optional unit is:

(1) Located on non-contiguous land; or

(2) By type, unless otherwise provided in the Special Provisions.

(b) The requirements of section 34 of the Basic Provisions that require the crop to be planted in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit are not applicable for optional units by type.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one coverage level for each type. For example, if you choose the 55 percent coverage level for one type, you may choose the 75 percent coverage level for another type. However, if you elect the Catastrophic Risk Protection (CAT) level of coverage for any of your apple acreage, the CAT level of coverage will be applicable to all insured apple acreage in the county. If you only have fresh apple acreage designated on your acreage report and processing apple acreage is added after the sales closing date, we will assign a coverage level equal to the lowest coverage level you selected for your fresh apple acreage. If you only have processing apple acreage designated on your acreage report and fresh apple acreage is added after the sales closing date, we will assign a coverage level equal to the coverage level you selected for your processing apple acreage.

(b) You may select only one price election for all the apples in the county insured under this policy unless the actuarial documents provide different price elections by type, in which case you may select one price election for each apple type designated in the actuarial documents. The price elections you choose for each type are not required to have the same percentage relationship to the maximum price election offered by us for each type. However, the percentage of the maximum price election must be in accordance with FCIC approved procedures. For example, if you choose 100 percent of the maximum price election for one type, you may choose a different percentage of the maximum price election for all other types. If you only have fresh apple acreage designated on your acreage report and processing apple acreage is added after the sales closing date, we will assign a price election percentage equal to the lowest price election percentage you selected for your fresh apple acreage. If you only have processing apple acreage designated on your acreage report and fresh apple acreage is added after the sales closing date, we will assign a price election percentage equal to the price election percentage you selected for your processing apple acreage.

(c) If you elect an additional level of coverage, you may insure your type ''Fresh (Combined),'' type ''Processing,'' or both, at the premium price election if:

(1) Authorized in the Special Provisions;

(2) You submit an Apple Supplemental Report, by policy by the production reporting date, containing your total sales (including production and revenue), differentiated by the following, as applicable:

(i) Fresh and direct marketing; and

(ii) Processing;

(3) Upon initial election of the premium price election, you provide three years of production and revenue as indicated in section 3(c)(2); and

(4) You meet any additional requirements specified in the Special Provisions.

(d) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any situation listed in sections 3(c)(1) through (4). If the situation occurred:

(1) Before the beginning of the insurance period, the yield used to establish your production guarantee will be reduced for the current crop year regardless of whether the situation was due to an insured or uninsured cause of loss. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce the yield used to establish your production guarantee at any time we become aware of the circumstance;

(2) Or may occur after the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee will be reduced for the current crop year only if the potential reduction in the yield used to establish your production guarantee is due to an uninsured cause of loss; or

(3) Or may occur after the beginning of the insurance period and you fail to notify us by the production reporting date, production lost due to uninsured causes equal to the amount of the reduction in the yield used to establish your production guarantee will be applied in determining any indemnity (*see* section 12(c)(1)(ii)). We will reduce the yield used to establish your production guarantee for the subsequent crop year.

(e) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any circumstance that may reduce your yields from previous levels. If the circumstance occurred:

(1) Before the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee will be reduced for the current crop year regardless of whether the circumstance was due to an insured or uninsured cause of loss;

(2) After the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee will be reduced for the current crop year only if the potential reduction in the yield used to establish your production guarantee is due to an uninsured cause of loss; or

(3) Before or after the beginning of the insurance period and you fail to notify us by the production reporting date, an amount equal to the reduction in the yield will be added to the production to count calculated in section 12(c) due to uninsured causes. We will reduce the yield used to establish your production guarantee for the subsequent crop year to reflect any reduction in the productive capacity of the trees or in the yield potential of the insured acreage.

(f) If the actuarial documents contain type ''Fresh (Combined),'' you can elect to insure your fresh acreage in aggregate under type ''Fresh (Combined)'' or by other fresh types identified in the actuarial documents, but not both.

* * * * *

6. Report of Acreage

(a) In addition to the requirements contained in section 6 of the Basic Provisions, you must report and designate all acreage by type by the acreage reporting date.

(1) Any acreage not qualifying for fresh apple production is not eligible for the Optional Coverage for Fresh Fruit Quality Adjustment contained in section 14.

(2) If you designate fresh apple acreage on the acreage report:

(i) You are certifying that your fresh apple acreage meets the requirements in section 7(d), unless otherwise authorized by FCIC.

(ii) You must submit an Apple Supplemental Report on the same basis you certify your acreage in section 6(a)(2)(i) by the production reporting date, containing the following, as applicable.

(A) Production sold as fresh;

(B) Production sold by direct marketing;

(C) Production sold as processing; and

(D) Production in storage.

(iii) And you fail to submit an Apple Supplemental Report in accordance with section 6(a)(2)(ii), you will not have coverage under any fresh type listed in the actuarial documents.

(iv) And you have high density acreage, the requirement in section 6(a)(2)(i) does not apply to high density acreage in the first year of insurability or as authorized by FCIC procedure.

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to verify your production records in accordance with FCIC procedures.

7. Insured Crop

* * * * *

(d) That are grown for fresh apple production on acreage:

(1) That is designated as fresh apples on the acreage report; and

(2) That you certify and, if requested by us, provide verifiable records to support, that at least 50 percent of the production from all acreage reported as fresh apple acreage by policy or unit, as applicable, was sold as fresh apples in one or more of the four most recent crop years preceding the previous crop year (*e.g.,* for the 2023 crop year, the four most recent crop years preceding the previous crop year end in the 2021 crop year), unless authorized by FCIC procedures;

(e) That are grown on acreage designated as processing apple production on the acreage report. Any production from acreage not meeting the requirements in section 7(d) must be designated on the acreage report as processing apple production; and

(f) If you anticipate performing any action that will reduce the productive capacity of the trees or the yield potential of the insured acreage (*e.g.,* removing or grafting trees) after the acreage reporting date you:

(1) May report all apple acreage when you report your acreage for the crop year and specify any affected acreage as uninsurable acreage (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not perform any action that will reduce the productive capacity of the trees or the yield potential of the insured acreage, you will be subject to the under-reporting provisions contained in section 6 of the Basic Provisions); or

(2) May report all apple acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage except as set forth herein.

(i) On acreage for which you perform actions that will reduce the productive capacity of the trees or the yield potential of the insured acreage, you may qualify for a reduction in premium only if you notify us in writing on a revised acreage report on or before March 31st or the date designated in the Special Provisions, and do not claim an indemnity on the acreage. No reduction in premium will be allowed if the required notice is not given or if you claim an indemnity for the acreage.

(ii) Upon receiving timely notice, insurance coverage on such acreage will cease and we will process your revised acreage report to indicate the applicable reduction in premium. If you do not perform the actions to the apple acreage as intended, you will be subject to the under-reporting provisions contained in section 6 of the Basic Provisions.

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11. Duties in the Event of Damage or Loss

* * * * *

(b) * * *

* * * * *

(2) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to verify your production records in accordance with FCIC procedures. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any other acceptable records required to be provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

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12. Settlement of Claim

* * * * *

(b) * * *

Basic Coverage Example:

You have a 100 percent share in one basic unit with 10 acres of fresh apples and 5 acres of processing apples designated on your acreage report, with a 600-bushel per acre production guarantee for both fresh and processing apples, and you select 100 percent of the price election on a price election of $9.10 per bushel for fresh apples and $2.50 per bushel for processing apples. You harvest 5,000 bushels of fresh apples and 1,000 bushels of processing apples, all grading U.S. No. 1 Processing or better. Your indemnity will be calculated as follows:

(A) 10 acres × 600 bushels = 6,000-bushel production guarantee of fresh apples;

5 acres × 600 bushels = 3,000-bushel production guarantee of processing apples;

(B) 6,000-bushel production guarantee × $9.10 price election × 100 percent of price election = $54,600 value of production guarantee for fresh apples;

3,000-bushel production guarantee × $2.50 price election × 100 percent of price election = $7,500 value of production guarantee for processing apples;

(C) $54,600 value of production guarantee for fresh apples + $7,500 value of production guarantee for processing apples = $62,100.00 total value of the production guarantee;

(D) 5,000 bushels of fresh apples are harvested and 1,000 bushels of processing apples are harvested.

(E) 5,000 bushels of fresh apple production to count × $9.10 price election × 100 percent of price election = $45,500 value of fresh apple production to count;

1,000 bushels of processing apple production to count × $2.50 price election × 100 percent of price election = $2,500 value of processing apple production to count;

(F) $45,500 value of fresh apple production to count + $2,500 value of processing apple production to count = $48,000 total value of production to count;

(G) $62,100 total value of the production guarantee − $48,000 total value of production to count = $14,100.00 value of loss; and

(H) $14,100 value of loss × 100 percent share = $14,100 indemnity payment.

(c) * * *

* * * * *

(2) Notwithstanding section 12(c)(1), when 65 percent or more of a unit's processing apple production is damaged apple production, the processing apple production from the unit will not be considered production to count provided none of the processing apple production from the unit will be sold.

* * * * *

14. Optional Coverage for Fresh Fruit Quality Adjustment

(a) In the event of a conflict between the Apple Crop Insurance Provisions and this option, this option will control. Insureds who select this option cannot receive less than the indemnity due under section 12.

(b) In return for payment of the additional premium designated in the actuarial documents, this option provides coverage for quality adjustment of fresh apple production as follows:

(1) To be eligible for this option, you must have elected to insure your apples at the additional coverage level. If you elect CAT after this option is effective, it will be considered as notice of cancellation of this option by you.

(2) You must elect this option on or before the sales closing date for the initial crop year for which you wish to insure your apples under this option. This option will continue in effect until canceled by either you or us for any succeeding crop year by written notice to the other party on or before the cancellation date. (3) This option will apply to all your fresh apple acreage designated on your acreage report and that meets the insurability requirements specified in the Apple Crop Insurance Provisions, except any acreage specifically excluded by the actuarial documents. Any acreage designated in your acreage report as grown for processing apple production is not eligible for coverage under this option.

(4) In lieu of sections 12(c)(1)(iii), (iv) and (2), the production to count will include all appraised and harvested production from all of the fresh apple acreage in the unit, adjusted in accordance with this option.

(5) Except as provided in section 14(b)(6), if the block or unit, as applicable, is damaged due to an insurable cause of loss to the extent that more than 15 percent of the apple production does not grade U.S. Fancy or better (unless another grade is specified in the Special Provisions) the following adjustments to the production to count will apply:

(i) When 16 percent through 64 percent of the apple production does not grade U.S. Fancy or better (unless another grade is specified in the Special Provisions), the production to count will be reduced two percent for each full one percent in excess of 15 percent.

(ii) When 65 percent or more of the apple production does not grade U.S. Fancy or better (unless another grade is specified in the Special Provisions), the production will not be considered production to count.

(6) If you sell any of your fresh apple production from the block or unit, as applicable, your production to count will be the greater of the amount determined in section 14(b)(5) or the sum of the amount determined as follows:

(i) All apples sold with a grade of U.S. Fancy or better (unless another grade is specified in the Special Provisions);

(ii) All marketable apple production sold with a grade of less than U.S. Fancy (unless another grade is specified in the Special Provisions) multiplied by the fresh fruit factor;

(iii) All marketable apple production sold as fresh without a grade. This amount is not to exceed what appraised or graded as U.S. Fancy or better (unless another grade is specified in the Special Provisions) prior to the adjustments under section 14(b)(5);

(iv) All marketable apple production sold as fresh without a grade that exceeds what appraised or graded as U.S. Fancy or better (unless another grade is specified in the Special Provisions) prior to the adjustments under section 14(b)(5) multiplied by the fresh fruit factor; and

(v) All marketable apple production sold as processing without a grade multiplied by the fresh fruit factor.

(7) The grade standards used in accordance with section 14(b)(6) and applied during the appraisal process with be the applicable grade standards used when evaluating the final disposition of the apple production.

(c) Any apple production not graded or appraised prior to the earlier of the time apples are placed in storage or the date the apples are delivered to a packer, processor, or other handler, will be considered U.S. Fancy or better (unless another grade is specified in the Special Provisions) and included in production to count under this option.

(d) Any adjustments that reduce your production to count under this option will not be applicable when determining production to count for APH purposes.

(e) Regarding written agreements under this option:

(1) This option may apply to a written agreement for apples when this option is contained in the actuarial documents for the county and crop.

(2) This option may apply to apples in a county which does not have actuarial documents for the crop when

a written agreement specifically allows this option.

(3) FCIC has the right to not allow this option on a written agreement in accordance with the provisions in section 18 of the Basic Provisions.

Optional Coverage for Fresh Fruit Quality Adjustment Example:

You have a 100 percent share in 10 acres of fresh apples designated on your acreage report, with a 600 bushel per acre guarantee, and you select 100 percent of the price election on a price election of $9.10 per bushel. You harvest 5,000 marketable bushels of apples from your designated fresh apple acreage, but only 2,650 of those bushels grade U.S. Fancy or better. Assuming you do not sell any of your fresh apple production, your indemnity would be calculated as follows:

(A) 10 acres × 600 bushels per acre = 6,000-bushel production guarantee of fresh apples;

(B) 6,000-bushel production guarantee of fresh apples × $9.10 price election × 100 percent of price election = $54,600 value of production guarantee for fresh apple acreage;

(C) The value of the fresh apple production to count is determined as follows:

(i) 5,000 bushels harvested − 2,650 bushels that graded U.S. Fancy or better = 2,350 bushels of fresh apple production not grading U.S. Fancy or better;

(ii) 2,350/5,000 = 47 percent of fresh apple production not grading U.S. Fancy or better;

(iii) In accordance with section 14(b)(5)(i): 47 percent − 15 percent = 32 percent in excess of 15 percent;

(iv) 32 percent × 2 = 64 percent;

(v) 5,000 bushels harvested × .64 (64 percent) − 3,200 bushels of fresh apple production not grading U.S. Fancy or better;

(vi) 5,000 bushels harvested − 3,200 bushels of fresh apple production not grading U.S. Fancy or better = 1,800 bushels of adjusted fresh apple production to count;

(vii) 1,800 bushels of adjusted fresh apples production to count × $9.10 price election × 100 percent of price election = $16,380 value of fresh apple production to count;

(D) $54,600 value of production guarantee for fresh apples − $16,380 value of fresh apple production to count = $38,220 value of loss;

(E) $38,220 value of loss × 100 percent share = $38,220 indemnity payment.

Richard Flournoy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2021–26989 Filed 12–14–21; 11:15 am]

BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2021–BT–TP–0023]

RIN 1904–AF18

Energy Conservation Program: Test Procedures for Cooking Products

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

ACTION: Notice of proposed rulemaking; extension of public comment period and notification of data availability (NODA).

SUMMARY: The U.S. Department of Energy (DOE) is extending the public comment period for the notice of proposed rulemaking (''NOPR'') that DOE published on November 4, 2021 regarding a proposal for a new test procedure for conventional cooking tops, a category of cooking products, that would replace the procedure that DOE withdrew on August 18, 2020. DOE is also publishing a NODA regarding the results of DOE's recently completed test program assessing the repeatability and reproducibility of the proposed test procedure. DOE is publishing the results of its testing and requests comment, data, and information regarding the results.

DATES: The comment period for the NOPR which published on November 4, 2021 (86 FR 60974), is extended. DOE will accept comments, data, and information regarding the NOPR and NODA on or before January 18, 2022.

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–2021–BT–TP–0023, by any of the following methods:

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

2. *Email: CookingProducts2021@ee.doe.gov.* Include the docket number EERE–2021–BT–TP–0023 in the subject line of the message.

No telefacsimilies (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III 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 coronavirus 2019 (''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 for this activity, 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/EERE-2021-BT-TP-0023.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III 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: *ApplianceStandardsQuestions@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) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

DOE originally established test procedures for cooking products in a final rule published in the **Federal Register** on May 10, 1978. 43 FR 20108, 20120–20128. In the years following, DOE amended the test procedure for conventional cooking tops on several

occasions. Those amendments included the adoption of standby and off mode provisions in a final rule published on October 31, 2012. 77 FR 65942.

In a final rule published December 16, 2016 (''December 2016 Final Rule''), DOE amended 10 CFR part 430 to incorporate by reference, for use in the conventional cooking tops test procedure, the relevant sections of Committee for Electrotechnical Standardization Standard 60350–2:2013, ''Household electric appliances—Part 2: Hobs—Method for measuring performance'' (''EN 60350–2:2013''), which uses a water-heating test method to measure the energy consumption of electric cooking tops. 81 FR 91418. The December 2016 Final Rule also extended the water-heating test method specified in EN 60350–2:2013 to gas cooking tops. *Id.*

On August 18, 2020, DOE published a final rule (''August 2020 Final Rule'') withdrawing the test procedure for conventional cooking tops. 85 FR 50757. DOE initiated the rulemaking for the August 2020 Final Rule in response to a petition for rulemaking submitted by the Association of Home Appliance Manufacturers (''AHAM''), in which AHAM asserted that the then-current test procedure for gas cooking tops was not representative, and, for both gas and electric cooking tops, had such a high level of variation that it did not produce accurate results for certification and enforcement purposes and did not assist consumers in making purchasing decisions based on energy efficiency (''AHAM petition''). 85 FR 50757, 50760; *see also* 80 FR 17944 (Apr. 25, 2018).

DOE withdrew the test procedure for conventional cooking tops because testing conducted by DOE and outside parties using that test procedure yielded inconsistent results. 85 FR 50757, 50760. As described in the August 2020 Final Rule, DOE's test data for electric cooking tops showed only small variations (within tests conducted at a single laboratory) while lab-to-lab test results submitted by AHAM showed high levels of variation for gas and electric cooking tops, indicating that the test may not have been reproducible across labs. *Id.* at 85 FR 50763. DOE was not able to identify the cause of variation. *Id.* DOE determined that the inconsistency in test results indicated that the results were unreliable, and that it was unduly burdensome to retain the procedure and require cooking top tests be conducted using that test method without further study to resolve those inconsistencies. *Id.* at 85 FR 50760. In January 2020, DOE initiated a round robin test program to further investigate the water-heating approach and the issues raised in the AHAM petition.[1]

DOE published a NOPR on November 4, 2021 (''November 2021 NOPR'') in which it presented results from the initial round robin test program and proposed to reestablish a test procedure for conventional cooking tops. 86 FR 60974. The proposed test procedure would adopt the latest version of the relevant industry standard [2] with modifications to adapt the test method to gas cooking tops, offer an optional method for burden reduction, normalize the energy use of each test cycle, include measurement of standby mode and off mode energy use, update certain test conditions, and provide certain clarifying language. *Id.*

The results of the initial round robin testing initiated in January 2020 were presented in Table III.1 and Table III.2 of the November 2021 NOPR. 86 FR 60974, 60979–60980. The results of this testing showed repeatability and reproducibility coefficients of variation (''COVs'') under 2 percent for electric cooking tops tested at certified laboratories. *Id.* at 86 FR 60980. In the November 2021 NOPR, DOE also observed that for gas cooking tops, the repeatability COVs were of 0.3–3.7 percent and the reproducibility COVs ranged from 4.0 to 8.9 percent. *Id.*

II. Summary of Additional Testing Performed by DOE

Following the August 2020 Final Rule, in May 2021, DOE initiated a second round robin test program in response to changes to electric cooking tops on the market and to evaluate potential variability in testing gas cooking tops. This NODA presents the results from the second round robin test program.

For the second round robin test program, DOE conducted two replications of the test procedure according to the test procedure proposed in the November 2021 NOPR, using the same three certified test laboratories as were used in the initial round robin testing, and using four out of the five gas cooking tops that were used during the initial round robin testing.[3]

DOE included one electric-coil cooking top that meets the most recent version of the relevant industry safety standard in its second round robin. In response to AHAM's petition, Whirlpool submitted comments regarding the frequency of heating element cycling, stating that the introduction of a ''coil surface unit cooking oil ignition test'' to the 16th edition of the Underwriters Laboratory (''UL'') standard 858, ''Household Electric Ranges Standard for Safety'' (''UL 858'') resulted in manufacturers making design changes to electric-coil cooking tops that increased cycling frequency over shorter durations in order to maintain a constant temperature. (Whirlpool, EERE–2018–BT–TP–0004, No. 20 at pp. 2–3) [4] The 16th edition of UL 858 published on November 7, 2014. On June 18, 2015, UL issued a revision to UL 858 that added a new performance requirement for electric-coil cooking tops intended to address unattended cooking, the ''Abnormal Operation—Coil Surface Unit Cooking Oil Ignition Test.'' This revision had an effective date of April 4, 2019. Because the electric-coil cooking top in DOE's initial round robin testing was purchased prior to that effective date, DOE could not be certain whether that test unit contained design features that would meet the performance specifications in the 2015 revision of UL 858. To address the lack of test data on electric-coil cooking tops that comply with the 2015 revision of the UL 858 safety standard, DOE included one electric-coil cooking top meeting the 2015 revision of UL 858 in its second round robin (labeled as Unit #11 in the test data).

To address the reproducibility concerns with the prior gas cooking top test results, DOE tested four gas cooking tops. As discussed in the November 2021 NOPR, several of the proposed test procedure provisions were intended to specifically reduce the testing variability for gas cooking tops.

The results from testing the electric cook tops and the gas cook tops are as follows. DOE observed that an electric-coil cooking top meeting the 2015 update of the UL 858 safety standard had repeatability COVs under 1 percent, and a reproducibility COV under 3 percent. DOE also observed that the repeatability COV for gas cooking tops

[1] This testing was conducted according to the cooking top test procedure, as published in December 2016.

[2] International Electrotechnical Commission (''IEC'') Standard 60350–2 (Edition 2.0 2017–08), ''Household electric cooking appliances—Part 2: Hobs—Methods for measuring performance.''

[3] Due to time constraints, Unit #11 in the test sample was not tested at Laboratory B, but was instead tested at Laboratory E, a non-certified test laboratory which has experience testing electric cooking tops.

[4] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking regarding test procedures for conventional cooking tops. The references are arranged as follows: (Commenter name, comment docket ID number, page of that document). (Docket No. EERE–2018–BT–TP–0004, which is maintained at *www.regulations.gov/docket/EERE-2018-BT-TP-0004*).

decreased to values under 2 percent (compared to a maximum of 3.7 percent from the first round robin), and the reproducibility COV for gas cooking tops decreased to values largely under 4 percent, with a maximum of 5.3 percent (compared to a maximum of 8.9 percent from the first round robin).

DOE notes that the average annual energy use as measured under the test procedure proposed in the November 2021 NOPR differs substantively from the average annual energy use measured for a given cooking top in the initial round robin, due primarily to the update in the number of annual cooking top cycles from 214.F5 cycles per year for gas cooking tops in the test procedure as published in December 2016 to 418 cycles per year as proposed in the November 2021 NOPR.[5] 86 FR 60974, 60994.

As also discussed in the November 2021 NOPR, DOE proposed a target power density for the optional potential simmering setting pre-selection test for gas cooking tops of 4.0 British thermal units per hour per square centimeter. *Id.* at 86 FR 60990. This proposal was based on the estimated power density for gas cooking top tests conducted as part of the initial round robin. As part of the second round robin testing on gas cooking tops, DOE has collected additional data on the measured power density of the minimum-above-threshold input setting and the maximum-below-threshold input setting for all four tested gas cooking tops, which may be compared to the proposed target power density.

The test data are available in the docket for this proposed rulemaking at: *www.regulations.gov/document/EERE-2021-BT-TP-0023-0004.*

III. Extension of the Comment Period

For the November 2021 NOPR, comments were originally due no later than January 3, 2022. In light of this NODA, DOE has determined that it is appropriate to extend the comment period to allow additional time for interested parties to prepare and submit comments. Therefore, DOE is extending the comment period and will accept comments, data, and information on the November 2021 NOPR and this NODA on and before January 18, 2022.

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. According 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).

Signing Authority

This document of the Department of Energy was signed on December 9, 2021, by Kelly J. Speakes-Backman, Principal Deputy 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

[5] Other proposals in the November 2021 NOPR likely to impact annual energy use include the starting water temperature (15 degrees Celsius (''°C'') in the procedure as published in December 2016, and 25 °C in the proposed test procedure), the normalization of the per-cycle energy use to account for the final water temperature, and the update test vessel selection criteria.

administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 10, 2021

Treena V. Garrett,

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

[FR Doc. 2021–27136 Filed 12–15–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1106; Airspace Docket No. 19–AAL–70]

RIN 2120–AA66

Proposed Amendment of United States Area Navigation (RNAV) Route T–266; Juneau, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend United States Area Navigation (RNAV) route T–266 in the vicinity of Juneau, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before January 31, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1106; Airspace Docket No. 19–AAL–70 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, 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. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, 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 would expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1106; Airspace Docket No. 19–AAL–70) and be submitted in triplicate to the Docket Management Facility (see ''**ADDRESSES**'' section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1106; Airspace Docket No. 19–AAL–70''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ''**ADDRESSES**'' section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-

route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation Development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to amend RNAV route T–266 by extending the route to the north from the current endpoint, the RADKY waypoint (WP), to the US/Canadian border at the SPUTA WP. Due to the future decommissioning of the Haynes, AK (HNS); Coghlan Island, AK (CGL); and Nichols, AK (ICK) NDBs, the route would serve as an adjusted alternate to Colored airway A–15, providing pilots the ability to follow more favorable terrain with lower GNSS MEAs. Additionally, in order to provide future connectivity to the route, a waypoint will be added (ZIDRA WP) to the northeast of Level Island, AK (LVD). This waypoint is not a turn point along the route so it will not be included in the legal description.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend RNAV route T–266 in the vicinity of Juneau, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–266: The FAA proposes to amend T–266 by extending the route from the RADKY, AK, WP to the SPUTA, AK, WP. The FOGID, AK, WP and the NEREE, AK, WP will be removed from the legal description, since they are not turn points.

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

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–266 SPUTA, AK to Annette Island, AK [Amended]

SPUTA, AK	WP	(Lat. 59°42′42.73″ N, long. 135°16′41.88″ W)
AKCAP, AK	WP	(Lat. 59°27′36.23″ N, long. 135°18′56.39″ W)
FEDMI, AK	WP	(Lat. 59°18′38.28″ N, long. 135°23′31.15″ W)
BAVKE, AK	WP	(Lat. 59°12′43.71″ N, long. 135°25′39.26″ W)
ROTVE, AK	WP	(Lat. 59°05′52.67″ N, long. 135°21′43.16″ W)
WONOS, AK	WP	(Lat. 59°00′16.62″ N, long. 135°20′12.89″ W)
COPOG, AK	WP	(Lat. 58°53′31.17″ N, long. 135°19′57.44″ W)
JAPOR, AK	WP	(Lat. 58°45′45.29″ N, long. 135°09′08.84″ W)
NIGPE, AK	WP	(Lat. 58°38′44.99″ N, long. 135°04′28.66″ W)
GUMLE, AK	WP	(Lat. 58°35′18.69″ N, long. 135°02′58.46″ W)
ZONPU, AK	WP	(Lat. 58°31′22.14″ N, long. 134°59′35.61″ W)
ZADED, AK	WP	(Lat. 58°20′24.09″ N, long. 134°48′30.77″ W)
RADKY, AK	WP	(Lat. 58°08′00.39″ N, long. 134°29′55.53″ W)
XADZY, AK	WP	(Lat. 57°01′00.00″ N, long. 133°00′00.00″ W)
VULHO, AK	WP	(Lat. 56°49′05.00″ N, long. 132°49′30.00″ W)
YICAX, AK	WP	(Lat. 56°39′45.00″ N, long. 132°37′00.00″ W)
VAZPU, AK	WP	(Lat. 56°27′24.00″ N, long. 132°25′56.00″ W)
DOOZI, AK	WP	(Lat. 55°37′57.14″ N, long. 132°10′28.73″ W)
Annette Island, AK (ANN)	VOR/DME	(Lat. 55°03′37.47″ N, long. 131°34′42.24″ W)

* * * * *

Issued in Washington, DC, on December 9, 2021.

Margaret C. Flategraff,

Acting Manager,Rules and Regulations Group.

[FR Doc. 2021–27142 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1132; Airspace Docket No. 19–AAL–66]

RIN 2120–AA66

Proposed Amendment of United States Area Navigation (RNAV) Route T–241; Level Island, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend United States Area Navigation (RNAV) route T–241 in the vicinity of Level Island, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before January 31, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1132; Airspace Docket No. 19–AAL–66 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* FAA Order JO 7400.11F, 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. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, 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 would expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1132; Airspace Docket No. 19–AAL–66) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1132; Airspace Docket No. 19–AAL–66''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air

Traffic Service route structure using satellite based navigation Development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to amend RNAV route T–241 by extending the route from Level Island, AK (LVD) VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) to a newly developed waypoint (WP) ZIDRA WP. The proposed extension would provide connectivity to the current T–266.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend RNAV route T–241 in the vicinity of Level Island, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–241: The FAA proposes to amend T–241 by extending the route from the Level Island, AK, (LVD) VOR/DME to the ZIDRA, AK, WP. The rest of the route would remain unchanged.

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

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–241 LATCH, AK to ZIDRA, AK [Amended]

LATCH, AK WP
(Lat. 56°00′45.21″ N, long. 134°35′53.84″ W)
Level Island, AK (LVD) VOR/DME
(Lat. 56°28′03.75″ N, long. 133°04′59.21″ W)
ZIDRA, AK WP
(Lat. 56°30′41.67″ N, long. 132°28′52.38″ W)

* * * * *

Issued in Washington, DC, on December 9, 2021.

Margaret C. Flategraff,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–27149 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0797]

RIN 1625–AA08

Special Local Regulation; Sail Grand Prix 2021 Race Event; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary special local regulation in the navigable waters of San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix 2021 race periods on March 24, 2022 through March 27, 2022. This special local regulation is necessary to provide for the safety of life on these navigable waters and to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities associated with the Sail Grand Prix 2021 race event. This proposed rulemaking would temporarily prohibit persons and vessels from entering into, transiting through, anchoring, blocking, or loitering within the event area adjacent to the city of San Francisco waterfront near the Golden Gate Bridge and Alcatraz Island, unless authorized by the Captain of the Port San Francisco or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before January 18, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0797 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Anthony I. Solares, U.S. Coast Guard District 11, Sector San Francisco, at 415–399–3585, *SFWaterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On September 9, 2021, the Silverback Pacific Company notified the Coast Guard of an intention to conduct the ''Sail Grand Prix 2021'' in the San Francisco Bay. Sail Grand Prix (SailGP) is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The inaugural season started April 2021 in seven iconic cities throughout the world and is traveling to San Francisco Bay in March 2022. In San Francisco, they propose to take advantage of the natural amphitheater that the central bay and city waterfront provide.

SailGP has applied for a Marine Event Permit to hold the Sail Grand Prix 2021 race event on the waters of San Francisco Bay in California. The Coast Guard has not approved the Marine Event Permit and is still evaluating the application. If the permit is approved, however, we anticipate that a special local regulation may be necessary to ensure public safety during the race. To provide adequate time for public input, we are proposing this special local regulation prior to a decision on the Marine Event Permit.

Prior to drafting this Notice of Proposed Rulemaking, the Coast Guard solicited input from maritime stakeholders to better understand the nature of commercial and recreational activities on the Bay and how the proposed Sail Grand Prix 2021 race event could impact such activities. The Coast Guard participated in both a navigation work group and monthly public meeting of the local Harbor Safety Committee (HSC) to meet with stakeholders and obtain information and gather feedback on notional approaches to enacting regulation in connection with the Sail Grand Prix.

These regulations are needed to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood during the simulation of racing scenarios for capsizing. The proposed special local regulation would help prevent injuries and property damage that may be caused upon impact by these fast-moving vessels. The provisions of this temporary special local regulation would not exempt racing vessels from any federal, state, or local laws or regulations, including Nautical Rules of the Road. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034 (previously, 33 U.S.C. 1231).

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05–1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

III. Discussion of Proposed Rule

The COTP San Francisco proposes to establish a special local regulation associated with the Sail Grand Prix 2021 race event from 12 p.m. to 5:30 p.m. each day from March 24, 2022 through March 27, 2022. The areas regulated by this special local regulation would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard proposes to establish a primary race area, a spectator area, and a waterfront passage area. An image of these proposed regulated areas may be found in the docket. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48′24.3″ N, 122°27′53.5″ W; thence to 37°49′15.6″ N, 122°27′58.1″ W; thence to 37°49′28.9″ N, 122°25′52.1″ W; thence to 37°49′7.5″ N, 122°25′13″ W; thence to 37°48′42″ N, 122°25′13″ W; thence to 37°48′26.9″ N, 122°26′50.5″ W and thence along the shore to the point of beginning.

Located within this footprint, there will be four separate regulated areas: Zone ''A'', the Official Practice Box Area; Zone ''B'', the Official Race Box Area; Zone ''C'', the Spectator Area, and Zone ''D'', the No Spectating or Loitering Area.

Zone ''A'', the Official Practice Box Area, will be marked by colored visual markers. The position of these markers would be specified via Local Notice to Mariners at least two weeks prior to the event and via Broadcast Notice to Mariners at least seven days prior to the event. Zone ''A'' would be used by the race and support vessels during the official practice period on March 24, 2022 and March 25, 2022. Zone ''A'', the Official Practice Box Area, will be enforced during the official practices from 12 p.m. to 5:30 p.m. on March 24, 2022 and from 12 p.m. to 5:30 p.m. on March 25, 2022. Excluding the public from entering Zone ''A'' is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone ''B'', the Official Race Box Area, would be marked by 12 or more colored visual markers. The position of these markers would be confirmed via Broadcast Notice to Mariners at least three days prior to the event. Only designated Sail Grand Prix 2021 race, support, and VIP vessels would be permitted to enter Zone ''B''. Zone ''B'', the Official Race Box Area, will be enforced during the official practices from 12 p.m. to 5:30 p.m. on March 26, 2022 and from 12 p.m. to 5:30 p.m. on March 27, 2022. Because of the hazards posed by the sailing competition, excluding non-race vessel traffic from Zone ''B'' is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone ''C'', the Spectator Area, would be within the special local regulation area designated in paragraph (a) and outside of Zone ''B'', the Official Race Box Area. Zone ''C'' will be defined by latitude and longitude points per Broadcast Notice to Mariners. Zone ''C'' will be further divided into three additional sub-areas: Zone ''C1 East'', Zone ''C1 West'', and Zone ''C2''. Zone ''C1 East'' and Zone ''C1 West'' will be the general spectator areas that are open to all vessel spectators. Zone ''C2'' would be the separately designated spectator area or areas marked by approximately four or more colored buoys that will be managed by marine event sponsor officials. Vessels would be prohibited from anchoring within the confines of Zone ''C.''

Zone ''D'' would be the No Loitering or Anchoring Area. This zone will allow vessels to transit in and out of marinas, piers, and vessel launch areas throughout the duration of the Sail Grand Prix event. All vessels must maintain headway and may not loiter or anchor within the confines of Zone ''D.'' Mariners can transit Zone ''D'' during the Sail Grand Prix 2021 event, decreasing the impact of the special local regulation to the San Francisco waterfront.

The duration of the establishment of the proposed special local regulation is

intended to ensure the safety of vessels in these navigable waters during the scheduled practice and race periods. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated 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 size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration, and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this rule restricts access to the waters encompassed by the special local regulation, the effect of this rulemaking will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local regulation will result in minimum impact. Therefore, mariners will be able to plan ahead and transit outside of the periods of enforcement of the special local regulation, or alternatively, they will be able to transit the city of San Francisco Waterfront via Zone ''D'' with approval from the COTP or designated representative. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

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.

This rulemaking may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing for a limited duration. This special location regulation would not have a significant economic impact on a substantial number of small entities for the reasons stated in Section IV.A above. When the special local regulation is in effect, vessel traffic can pass safely around the regulated area. The maritime public would be advised in advance of this special local regulation via Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rulemaking 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 rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 rulemaking 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 a special local regulation that would create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. 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 contact 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 through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0797 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 to the docket 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 § 100.35.T11–084 to read as follows:

§ 100.35T11–084 Special Local Regulation; Sail Grand Prix 2021 Race Event, San Francisco, CA

(a) *Regulated areas.* The regulations in this section apply to all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following latititude and longitude points, beginning at 37°48′24.3″ N, 122°27′53.5″ W; thence to 37°49′15.6″ N, 122°27′58.1″ W; thence to 37°49′28.9″ N, 122°25′52.1″ W; thence to 37°49′7.5″ N, 122°25′13″ W; thence to 37°48′42″ N, 122°25′13″ W; thence to 37°48′26.9″ N, 122°26′50.5″ W and thence to the point of beginning.

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

(1) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the special local regulation.

(2) *Zone* ''*A*'' means the Official Practice Box Area. This zone will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48′24.3″ N, 122°27′53.5″ W; thence to 37°49′15.6″ N, 122°27′58.1″ W; thence to 37°49′28.9″ N, 122°25′52.1″ W; thence to 37°49′7.5″ N, 122°25′13″ W; thence to 37°48′42″ N, 122°25′13″ W; thence to 37°48′26.9″ N, 122°26′50.5″ W and thence to the point of beginning.

(3) *Zone* ''*B*'' means the Official Race Box Area, which will be marked by 12 or more colored visual markers within the special regulation area designated in paragraph (a). The position of these markers will be specified via Broadcast Notice to Mariners at least three days prior to the event.

(4) *Zone* ''*C*'' means the Spectator Area, which is within the special local regulation area designated in paragraph (a) and outside of Zone ''B,'' the Official Race Box Area. Zone ''C'' will be defined by latitude and longitude points per Broadcast Notice to Mariners. Zone ''C'' will be further divided into three additional sub-areas: Zone ''C1 East,'' Zone ''C1 West,'' and Zone ''C2.'' Zone ''C1 East'' and Zone ''C1 West'' will be the general spectator areas that are open to all vessel spectators. Zone ''C2'' means the separately designated spectator area or areas marked by approximately four or more colored buoys that will be managed by marine event sponsor officials. Vessels shall not anchor within the confines of Zone ''C.''

(5) *Zone* ''*D*'' means the No Loitering and Anchoring Area. This zone will allow vessels to transit in and out of marinas, piers, and vessel launch areas throughout the duration of the Sail Grand Prix. All vessels shall maintain headway and shall not loiter or anchor within the confines of Zone ''D.'' Mariners can transit Zone ''D'' during the Sail Grand Prix 2021 event, decreasing the impact of the special local regulation to the San Francisco waterfront.

(c) *Special local regulation.* The following regulations apply between 12 p.m. and 5:30 p.m. on the Sail Grand Prix 2021 official practice and race days.

(1) Only support and race vessels will be authorized by the COTP or designated representative to enter Zone ''B'' during the race event. Vessel operators desiring to enter or operate within Zone ''A'' or Zone ''B'' must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone ''A'' on VHF–23A.

(2) Spectator vessels in Zone ''C'' must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issues. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone ''C'' must operate at safe speeds, which will create minimal wake.

(4) Vessels in Zone ''D'' shall maintain headway and shall not loiter or anchor within the confines of Zone ''D.'' Vessels in Zone ''D'' must

maneuver as directed by the COTP or designated representative.

(5) Rafting and anchoring of vessels is prohibited within Zones ''A'', ''B'', ''C'', and ''D.''

(d) *Enforcement periods.* This special local regulation will be enforced for the official practices and race events from 12 p.m. to 5:30 p.m. each day from March 24, 2022 through March 27, 2022. At least 24 hours in advance of the official practice and race events commencing on March 24, 2022, the COTP will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners and in writing via the Coast Guard Boating Public Safety Notice.

Dated: November 30, 2021.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2021–26416 Filed 12–15–21; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 86, No. 239
Thursday, December 16, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0049]

Notice of Availability of an Environmental Assessment for Release of Lophodiplosis indentata for Biological Control of Melaleuca quinquenervia (Myrtaceae) in the Contiguous United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment (EA) relative to permitting the release of *Lophodiplosis indentata* (Diptera: Cecidomyiidae) for the biological control of *Melaleuca quinquenervia* (Myrtaceae) in the contiguous United States. Based on the EA and other relevant data, we have reached a preliminary determination that the release of this control agent within the contiguous United States will not have a significant impact on the quality of the human environment. We are making the EA available to the public for review and comment.

DATES: We will consider all comments that we receive on or before January 18, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2021–0049 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0049, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2327; email: *Colin.Stewart@usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the release of the fly, *Lophodiplosis indentata* (Diptera: Cecidomyiidae), into the contiguous United States for use as a biological control agent of *Melaleuca quinquenervia* (Myrtaceae) (hereinafter referred to as melaleuca).

Melaleuca, a large tree native to Australia, New Caledonia, and Papua New Guinea, was imported into Florida in the late 19th century. It was planted extensively in Palm Beach, Broward, Collier, and Miami-Dade Counties. Unsuccessful treatment campaigns during the 1970s and 1980s culminated in Federal and State listing of melaleuca as a noxious weed. By the 1990s, melaleuca covered more than 200,000 hectares of wetlands in south Florida. It dramatically disrupted normal water cycles, fire cycles, disturbance recovery cycles, nutrient cycling, light availability, and tree canopy. Despite gains in controlling melaleuca using three other biological control insects (*Oxyops vitiosa, Boreioglycaspis melaleucae,* and *Lophodiplosis trifida*), aerial herbicides, and other control efforts, many localized areas in Florida are still overwhelmed by melaleuca.

The fly, *Lophodiplosis indentata,* is a gall-forming melaleuca specialist that lays eggs on new foliage of the tree. When the eggs hatch, the emerging larvae bore into leaf tissue, instigating a gall (an abnormal growth) to form around them. These galls distort young foliage and result in reduced sapling height.

A permit application has been submitted to APHIS for the purpose of releasing *L. indentata* into the contiguous United States for use as a biological control agent to add to the impact of the three previously released biological control agents in reducing the severity of melaleuca infestations.

APHIS' review and analysis of the proposed action are documented in detail in an environmental assessment (EA), titled ''Field Release of *Lophodiplosis indentata* (Diptera: Cecidomyiidae), for classical biological control of *Melaleuca quinquenervia* (Myrtaceae), in the contiguous United States'' (March 2021). We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may also request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 13th day of December 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–27254 Filed 12–15–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: FNS Information Collection Needs Due to COVID–19; Comment Request for Extending Approval for OMB #0584–0654

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: FNS is seeking public comment on its intent to ask the Office of Management and Budget (OMB) to extend approval of the information collection under OMB approval #0584–0654 from January 31, 2022 until August 27, 2023. In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed extension of this currently approved information collection, which focuses on FNS' information collection needs due to COVID–19 based on information currently known.

DATES: Written comments must be received on or before January 18, 2022.

ADDRESSES: Comments may be sent to: Maureen Lydon and Jamia Franklin of the Food and Nutrition Service, U.S. Department of Agriculture, via email to *Maureen.lydon@usda.gov* and *Jamia.Franklin@usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Jamia Franklin at *Jamia.franklin@usda.gov* or 703–305–2403, and Maureen Lydon at *Maureen.lydon@usda.gov,* or 703–457–7713.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) The proposed extension of OMB approval and whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: FNS Information Collection Needs due to COVID–19.

Form Number:

OMB Number: 0584–0654.

Expiration Date: January 31, 2022.

Type of Request: Extension of a currently approved collection.

Abstract: As the Food and Nutrition Service (FNS) continues responding to the COVID–19 Coronavirus pandemic, it is implementing a number of waivers and program adjustments to ensure Americans in need can access nutrition assistance during the crisis while maintaining recommended practices.

Two pieces of legislation have detailed many of the program adjustments available to FNS. The Families First Coronavirus Response Act (Pub. L. 116–127) (FFCRA) and the Coronavirus Aid, Relief and Economic Security (CARES) Act (Pub. L. 116–136) provided a number of program adjustments and additional funding, respectively. The statutes describing these waivers and flexibilities also have reporting requirements. The Department obtained OMB approval to collect the information described in this Notice (OMB 0584–0654; expiration 1/31/2022). USDA anticipates the need to collect data beyond the expiration date and is seeking approval of this Information Collection Request in order to meet continuing information collection and reporting requirements, as well as program administration needs to implement the CARES Act.

In addition to program adjustments and waiver flexibilities authorized under the FFCRA and CARES Act, Section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) (NSLA) allows FNS to waive statutory and regulatory requirements established under the NSLA or Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*) for a State or eligible service provider administering a Child Nutrition Program (CNP). FNS issues statewide waivers under NSLA waiver authority in response to State agencies' requests to facilitate the ability for Program operators to carry out the purposes of CNPs during COVID–19-related operations. FNS has issued waivers under NSLA authority to enable program operators to operate CNPs with appropriate safety measures in place with respect to the COVID–19 pandemic. NSLA waiver authority requires States or eligible service providers in need of a waiver of program requirements to submit a detailed application that identifies the statutory or regulatory requirements to be waived. Applications must also describe any actions undertaken to remove barriers, describe the goal of the waiver to improve services, and include a description of the impediments to the efficient operation and administration of the program. States must provide notice to the public regarding each waiver request submitted to FNS, and States that receive a waiver approval of program requirements under NSLA waiver authority must submit a report on waiver implementation, including whether the waiver resulted in improved services to children.

Section 2302(a)(2) of the FFCRA allowed USDA to adjust, at the request of State agencies or by guidance in consultation with one or more State agencies, issuance methods and application and reporting requirements for the Supplemental Nutrition Assistance Program (SNAP) under the Food and Nutrition Act (FNA) of 2008, as amended, to be consistent with what is practicable under actual conditions in affected areas. Section 2302(c) of FFCRA required the Secretary of Agriculture to submit a report to Congress following the end of the public health emergency, including a description of the measures taken to address the food security needs of affected populations during the emergency, including any information or data supporting State agency requests, among other information not included in this information collection (IC).

Section 2203(a)(1) of the FFCRA allowed State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to request a waiver of 17(d)(3)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(i)), which requires applicants be physically present in the clinic. Local agencies are required to submit a report detailing the use and benefits of this waiver within one year of use of such waiver, and State agencies are required to submit a summary report of local agency usage of waivers under this Section within 18 months. Section 2204(a)(1) gave State agencies administering WIC and the WIC Farmers Market Nutrition Program (FMNP) the opportunity to request a waiver or modification of qualified regulatory requirements from USDA if such requirements cannot be met due to COVID–19, and such waivers are necessary to provide assistance to WIC and WIC FMNP participants. State

agencies are also required under this Section to provide a report to USDA no later than one year after such waivers were granted, detailing their use of the waiver and how it improved services to women, infants and children.

In the instances described above, the information collection addressed and/or will address burden associated with requirements under provisions of the NSLA, FFCRA, and CARES Act, as well as Nationwide waivers under some of the aforementioned authorities. State agencies have been required to develop and submit waiver requests in response to COVID–19, provide public notification regarding waiver requests, and report to FNS evaluation data on how waivers impacted Federal benefit programs.

Additionally, FNS is asking State agencies to report the USDA commodities used during a disaster on a more frequent basis. This information is currently collected in an OMB-approved form, the FNS–292A, Report of Commodity Distribution for Disaster Relief (OMB Control Number 0584–0594 Food Programs Reporting System, expiration July 31, 2023). State distributing agencies may release commodity or donated foods procured by the USDA to disaster organizations to provide nutritional assistance to disaster victims. Under the Code of Federal Regulations (CFR) at 7 CFR 250.69(f), State distributing agencies shall provide a summary report to FNS within 45 days following termination of the disaster assistance, and maintain records of these reports and other information relating to disasters. OMB approved FNS to change the frequency of the collection of the commodity reports from 45 days after the completion of the disaster, to a weekly basis. This change was requested due to the number of requests and the burden of the FNS regional offices. This request allowed FNS Food Distribution (FD) staff to monitor levels of USDA commodities more frequently to ensure States had access to USDA commodities.

Affected Public: State, Local and Tribal Government: Respondent groups identified include: (1) State agencies and Indian Tribal Organizations that operate USDA Nutrition Assistance Programs; and (2) Local WIC Agencies.

Estimated Number of Respondents: The total estimated number of respondents is 1,349. This includes: 53 SNAP State agencies who will submit waiver information, evaluation information, and weekly operational updates; 20 WIC State program staff who will submit evaluation information and a data pull from their MIS system; 22 Farmers Market Nutrition Program staff who will submit evaluation information; 67 CNP State agencies who will develop and submit waiver requests, provide public notification, and report to FNS on waiver implementation; Food Distribution Program Staff in 60 State Agencies who will submit required forms; and 800 WIC Local Agency Program staff who will submit information on an evaluation survey. Table 1, the estimated burden table below, delineates the number of respondents carrying out each of the aforementioned activities.

As shown in Table 1, FNS anticipates two types of respondents: State Government workers and Local Government workers. Together, their reporting burden is approximately 11,549 burden hours, assuming data collection over 12 months.

SNAP State Program Staff will have two types of burden:

- *Waivers:* FNS anticipates approximately 3 waiver requests per every 3 months per State agency. SNAP Program Staff in 53 State Agencies will submit approximately 3 waiver requests per every 3 months. Each waiver will take about 10 hours to complete for a total of 6,360 burden hours. [53 State Agency staff × 3 waivers per every 3 months on an annual basis (12 waiver requests) = 636 responses × 10 hours = 6,360 burden hours].
- *Data Reports:* SNAP Program Staff in 53 State Agencies will submit approximately 3 data reports, reporting on the evaluation data required by FFRCA. It will require about 3 hours to report the data in the data reports for a total of 159 burden hours. (53 State Agency Staff × 3 data reports = 159 responses × 3 hours = 477 burden hours).
- *Weekly operational update:* SNAP program staff in 53 State Agencies will submit 1 weekly update to their FNS Regional Offices. Each update will take approximately 1 hour to complete. (53 State agencies × 52 weekly reports = 2,756 annual responses × 1 hour per response = 2,756 burden hours).

WIC State Program Staff will have one type of burden:

- *Evaluation Information:* WIC Program Staff in 20 State Agencies will submit 1 survey, reporting on the evaluation data required by the FFRCA. It will take them about 2 hours to complete the survey, for a total of 40 burden hours. (20 State Agency Staff × 1 survey = 20 responses × 2 hours = 40 burden hours).
- *MIS Data Pull:* FNS will request states submit a data pull from their MIS systems to help facilitate the evaluation data reporting on the number of WIC participants affected by different waivers. (20 WIC State Agencies × 1 data pull = 20 Responses × 1.5 hours per response = 30 burden hours).

FMNP State Program Staff will have one type of burden:

- *Evaluation Information:* FMNP Program Staff in 22 State Agencies will submit 1 State Plan, reporting on the evaluation data required by the FFRCA. It will take them about 2 hours to complete the report, for a total of 44 burden hours. (22 State Agency Staff × 1 State Plan = 22 Responses × 2 hours = 44 burden hours).

CN Program Staff will have one type of burden:

- Statewide, COVID-related waivers authorized under Section 12(l) of the NSLA: It is estimated 67 State agencies review statewide waiver protocol and guidance pertaining to the waiver authority established at Section 12(l) of the NSLA, such as *Child Nutrition Program Waiver Request Guidance and Protocol—Revised* (Memo code: SP15 CACFP 12 SFSP 05–2018). FNS estimates State agencies revisit NSLA waiver guidance one time each year, and that it takes approximately 15 minutes (.25 hours) to review guidance (67 responses × .25 hours = 16.75 hours).

Furthermore, FNS estimates 67 CN State agencies will request statewide waivers that follow guidance outlined in *Child Nutrition Program Waiver Request Guidance and Protocol—Revised* (Memo code: SP15 CACFP 12 SFSP 05–2018) and submit waiver requests to FNS. It is estimated, together, 67 State agencies will develop and request a total of 130 statewide waivers of CN Program requirements and that each request will take approximately 1 hour to develop and submit to FNS (130 responses × 1 hour = 130 hours). Each State agency that submits a request is required to provide public notice regarding the request. FNS estimates 67 State agencies will provide 130 public notices associated with statewide waiver requests submitted under Section 12(l) waiver authority, and that it takes 30 minutes (.5 hours) to provide each public notice (130 responses × .5 hours = 65 hours).

Of the total 130 estimated statewide waiver requests, FNS estimates 100 will be approved, and will require State agencies to report on waiver implementation within 1 year of the approval date. It takes approximately 30 minutes (.5 hours) for State agencies to develop and submit evaluation data on statewide waiver implementation (100 responses × .5 hours = 50 hours).

Food Distribution State program staff will have one type of burden:

• *FNS292A:* Food Distribution Program Staff in 60 State Agencies will submit form FNS 292A 52 times (weekly over twelve months). It will take them approximately 15 minutes to complete the form each time for a total of 780 burden hours (60 State Agency Staff × 52 submissions = 3,120 responses × .25 hours = 780 burden hours).

WIC Local Government Agency Staff: Local Agency staff in about 800 Local WIC agencies will submit 1 survey to FNS. It will take 1 hour to complete and submit the report for a total of 800 burden hours (800 Local Agency Staff × 1 submission = 800 responses × 1 hour = 800 burden hours).

TABLE 1—RESPONDENT ESTIMATED BURDEN TABLE

Respondent category and type of respondent	Instruments	Number of respondents	Estimated frequency of response	Total annual estimated responses	Hours per response	Annual estimated burden (hours)
State Government Estimates						
SNAP State Program	Waiver	53	12	636	10	6,360
SNAP State Program	Data Reports	53	3	159	3	477
SNAP State Agency	Weekly Operational Update	53	52	2,756	1	2,756
WIC State Program Staff	Evaluation Survey	20	1	20	2	40
WIC State Program Staff	MIS Data Pull	20	1	20	1.5	30
FMNP State Program Staff	Evaluation Info	22	1	22	2	44
CN State Agency	Review 12(l) waiver guidance	67	1	67	.25	16.75
CN State Agency	12(l) Waiver Development and Submission	67	1.94	130	1	130
CN State Agency	12(l) Waiver Public Notice	67	1.94	130	.5	65
CN State Agency	12(l) Reporting	67	1.5	100	.5	50
Local Government Estimates						
Food Distribution State Program	Form FNS292A	60	52	3,120	.25	780
WIC Local Agency Program Staff	Report to State	800	1	800	1	800
Respondent Estimated Total		1,349	129.38	7,960	23	11,548.75

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2021–27223 Filed 12–15–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness Solicitation of Nominations for Membership

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an opportunity to apply for membership on the Advisory Committee on Supply Chain Competitiveness.

SUMMARY: The Department of Commerce, International Trade Administration (ITA), seeks nominations for immediate consideration to fill positions on the Advisory Committee on Supply Chain Competitiveness (''the Committee''). The Committee advises the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness. The Department intends for the Committee to play a key role in formulating recommendations to address current global supply chain challenges, including identifying key bottlenecks in supply chains and actionable solutions to address them, advising on the latest advances in supply chain management technology and how to apply them to the current challenges in the economy, and developing long term recommendations to make supply chains more resilient. The Department seeks members who, by virtue of their current roles and past experience, bring a track record of effective senior executive leadership on issues impacting the U.S. and global supply chains.

DATES: ITA will accept nominations on a rolling basis for membership on the Committee for the two-year charter term that began on November 10, 2021, and will expire on November 9, 2023. Immediate consideration will be given to applications received by December 29, 2021. ITA will accept nominations under this notice on an on-going basis during the charter term to fill vacancies as they arise.

ADDRESSES: Richard Boll, Office of Supply Chain, Professional & Business Services, Room 11004, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; phone 202–482–1135; email: *richard.boll@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services, Room 11004, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; phone 202–482–1135; email: *richard.boll@trade.gov.* Please visit the Advisory Committee on Supply Chain Competitiveness website at: *https://www.trade.gov/acscc.*

SUPPLEMENTARY INFORMATION:

I. Background

The Committee advises the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support national economic competitiveness and U.S. export growth, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. The Committee provides detailed policy and technical advice, information, and recommendations to the Secretary regarding:

(1) National, state, or local factors in trade programs and policies that affect the efficient domestic and international operation and competitiveness of U.S. global supply chains from point of origin to destination;

(2) elements of national policies affecting the movement of goods, infrastructure, investment, and regulatory factors that affect supply chain competitiveness and sustainability; and

(3) information and data systems to generate metrics that can be used to

quantify and improve supply chain performance.

The Department intends for the Committee to focus on the current challenges facing the supply chain during this charter term.

II. Membership

Members will be selected based on their demonstrated professional or personal qualifications and experience relevant to the functions and tasks of the Committee. Members shall be selected in a manner that ensures that the Committee remains balanced with respect to the diversity of the supply chain sector, including with regard to geographic location and company size. The diverse membership of the Committee assures perspectives and expertise reflecting the full breadth of the Committee's responsibilities and, where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity of the United States.

Members of the Committee shall represent companies, organizations, and stakeholders involved in the U.S. supply chain, with at least one individual representing each of the following: Supply chain firms or their associations; users of supply chains (*e.g.,* retailers, distributors, manufacturers, or other sectors); freight transportation providers; ports; labor unions; and academia.

Other than the experts from academia, all members shall serve in a representative capacity, expressing the views and interests of a U.S. company or U.S. organization with which they are affiliated (*e.g.* as an employee or director), as well as its particular sector. Members serving in such a representative capacity are not Special Government Employees. The members from academia serve as experts and therefore are Special Government Employees (SGEs) and shall be subject to the ethical standards applicable to SGEs. Members who serve as SGEs must certify that they are not Federally registered lobbyists.

Each member of the Committee must be a U.S. citizen and not registered as a foreign agent under the Foreign Agents Registration Act. All appointments are made without regard to political affiliation. Self-nominations will be accepted.

Members of the Committee will not be compensated for their services or reimbursed for their travel expenses. The Committee shall meet approximately quarterly, or as determined by the designated federal officer. Members shall serve at the pleasure of the Secretary.

III. Request for Nominations

Requirements for all nominations. All nominations for membership on the Committee should provide the following information:

(1) Name, title, and relevant contact information (including phone and email address) of the individual requesting consideration; and

(2) An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938.

Additional requirements for representative nominations. In addition to the above requirements for all nominations, nominations for representatives of companies, organizations, and stakeholders involved in the U.S. supply chain, including supply chain firms or their associations, users of supply chains (*e.g.,* retailers, distributors, manufacturers, or other sectors), freight transportation providers, labor unions, and ports, should also provide the following information:

(1) A sponsor letter on the letterhead of the sponsoring U.S. company or U.S. organization to be represented, containing a brief description why the nominee should be considered for membership; the nominee may be an employee, director, or other representative of a company or organization; consideration will be given to the nominee's current affiliation with the company or organization to be represented, as well as prior experience with other companies or organizations that demonstrate the ability to contribute to the work of the Committee;

(2) Short biography of nominee including credentials;

(3) Brief description of the U.S. company or U.S. organization to be represented and its activities and size (number of employees or members and annual sales, if applicable); and

(4) An affirmative statement that the applicant meets all Committee eligibility requirements for representative members, including that the applicant represents a U.S. company or U.S. organization.

a. For purposes of Committee eligibility, a U.S. company is at least 51 percent owned by U.S. persons.

b. For purposes of Committee eligibility, a U.S. organization is controlled by U.S. persons, as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable.

Please do not send company or organization brochures.

Additional requirements for academic nominations. In addition to the above requirements for all nominations, nominations for experts from academia should also provide the following information:

(1) A description of the nominee's area(s) of expertise;

(2) A concise Curriculum Vitae (CV) or resume that covers education, experience, and relevant publications and summarizes how this expertise addresses supply chain competitiveness;

(3) An affirmative statement that the applicant meets all Committee eligibility requirements. Nominations may be emailed to *acscc@trade.gov.* Nominees selected for appointment to the Committee will be notified.

Dated: December 10, 2021.

Heather Sykes,

Director, Office of Supply Chain, Professional, and Business Services.

[FR Doc. 2021–27197 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Draft Revised Management Plan for the Delaware National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Request for comments on draft revised management plan.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is soliciting comments from the public regarding a proposed revision of the management plan for the Delaware National Estuarine Research Reserve (DNERR or Reserve). A management plan provides a framework for the direction and timing of a reserve's programs, allows reserve managers to assess a reserve's success in meeting its goals and to identify any necessary changes in direction, and is used to guide programmatic evaluations of the reserve. Plan revisions are required of each reserve in the National Estuarine Research Reserve System at least every five years. This revised plan is intended to replace the plan approved in 2013.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) on or before January 18, 2022.

ADDRESSES: The draft revised management plan can be downloaded or

viewed at: *https://documents.dnrec.delaware.gov/coastal/DNERR/2022-DRAFT-DNERR-Management-Plan.pdf.* The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**). You may submit comments by any of the following methods:

Electronic Submission: Submit all electronic public comments by email to *nina.garfield@noaa.gov.*

Mail: Submit written comments to Rachael Phillos, Manager, Delaware National Estuarine Research Reserve, 818 Kitts Hummock Road Dover, DE 1990. Comments submitted by any other method or after the comment period may not be considered. All comments are part of the public record and may be publicly accessible. Any personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender may also be accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Nina Garfield of NOAA's Office for Coastal Management, by email at *nina.garfield@noaa.gov,* or phone at 240–485–8727, or via postal mail: NOAA/Office for Coastal Management, 1305 East West Highway, 10th Floor, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a state must revise the management plan for the research reserve at least every five years. If approved by NOAA, the reserve's revised plan will replace the plan previously approved in 2013.

The draft revised management plan outlines the reserve's strategic goals and objectives; administrative structure; programs for conducting research and monitoring, education, and training; resource protection, restoration, and manipulation plans; public access and visitor use plans; consideration for future land acquisition; and facility development to support reserve operations.

In addition to continuing the tradition of robust local community education, training and research and stewardship programs, the Delaware National Estuarine Research Reserve intends, in this next management planning period, to focus on creating demonstration areas that can be used to model best management practices for local landowners; fostering the next generation of coastal professionals and conservation stewards; engaging land managers in conversations based on watershed scale conservation; and connecting with the Delaware community in a meaningful and inclusive manner to identify their needs as the stakeholders of this research reserve. The revised management plan, once approved, would serve as the guiding document for the 6364-acre research reserve for the next five years.

Since 2013, this research reserve has had an important impact on the local area and its communities. The reserve's training program held 53 trainings, workshops or conferences with 27,851 contact hours with local constituents. The education program had 32,466 contact hours with 11,722 K–12 students and 23,599 public participants. Reserve volunteers donated 20,739 hours of time—producing the full-time employee equivalent of 10.5 years worth of work. Some of those volunteer hours were spent recording 1,784,923 spawning horseshoe crabs on the three beaches that the reserve monitors. Research and monitoring efforts produced 15 peer-reviewed publications that used this reserve's infrastructure and data. The mini-grant opportunity, available through their Research and Monitoring Program, distributed 183,766 dollars of funding to local, Delaware-based researchers, many of which were early career faculty. Seventy-six acres of land within this reserve's boundary have been enhanced through reforestation and other restoration efforts.

This draft management plan expands the boundary of the Delaware National Estuarine Research Reserve and is soliciting comments from the public on the proposed boundary expansion. With the approval of this current management plan, this boundary will be amended to incorporate an additional six parcels—all found within the priority acquisition area identified in the 2013 revision of the plan—increasing the total acreage of the reserve to 6,364 acres. These parcels include lands that enhance and contribute to the ecological protection within the Blackbird Creek watershed. The ''McKinley'' property at 531 Union Church Road is 67.4 acres in size and includes a mix of native hardwoods and coastal plain ponds (Delmarva Bays). At 0 Taylors Bridge Road, the 32-acre ''Unruh'' property includes a wooded tributary buffer and agricultural lands. Three parcels known as the ''Norris'' property, totaling 42.6 acres at Union Church Road were acquired to improve wildlife corridor habitat and include forest and agriculture lands. Additionally, an inholding property known as ''Manwaring'' at 789 Blackbird Landing Road that is 16.3 acres in size was acquired. More details on these parcels and the boundary change may be found in the draft revised management plan.

NOAA's Office for Coastal Management analyzes the environmental impacts of the proposed approval of this draft revised management plan in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(2)(C), and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508).

The public is invited to comment on the draft revised management plan. NOAA will take these comments into consideration in deciding whether to approve the draft revised management plan in whole or in part.

Authority: 16 U.S.C. 1451 *et seq.*; 15 CFR 921.33.

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–27185 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Extension of Public Comment Period for the Notice of Intent To Conduct Scoping and To Prepare a Draft Environmental Impact Statement for the Proposed Chumash Heritage National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of extension of public comment period.

SUMMARY: On November 10, 2021, the National Oceanic and Atmospheric Administration (NOAA) published a Notice of Intent to conduct scoping and to prepare a draft environmental impact statement for the proposed Chumash Heritage National Marine Sanctuary. With this notice, NOAA is extending the public comment period by 21 days to January 31, 2022, to provide the public with additional time to provide comments on the Notice of Intent.

DATES: Comments must be received by January 31, 2022, as specified under **ADDRESSES**. Comments received after this date may not be accepted. The dates for virtual public scoping meetings are unchanged. NOAA hosted two virtual public scoping meetings on December 8 and December 13, 2021, and will

conduct a third meeting at the following date and time:

• Thursday, January 6, 2022, 4 p.m.–7 p.m. Pacific Time.

NOAA may end the meeting before the time noted above if all those participating have completed their oral comments.

ADDRESSES: You may submit comments for this public scoping process by any of the following methods:

• *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and enter ''NOAA–NOS–2021–0080'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Send any hard copy public comments by mail to: Paul Michel, NOAA Sanctuaries West Coast Regional Office, 99 Pacific Street, Building 100F, Monterey, CA 93940.

• *Public Scoping Meeting:* Provide oral comments during the remaining virtual public scoping meeting, as described under **DATES**. Webinar registration details and additional information about how to participate in this meeting is available at *www.sanctuaries.noaa.gov/chumash-heritage.*

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Paul Michel, (831) 647–4217, *paul.michel@noaa.gov,* West Coast Region Policy Coordinator.

SUPPLEMENTARY INFORMATION: On November 10, 2021, NOAA issued a Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Chumash Heritage National Marine Sanctuary (''Notice of Intent'') (86 FR 62512).

With that Notice of Intent, NOAA initiated a process to consider designating a portion of waters along and offshore of the central coast of California as a national marine sanctuary, in accordance with the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.* This process is based on the area's qualities and boundaries as described in the community-based nomination [1] submitted on July 17, 2015, excluding any geographical overlap of the boundaries proposed for the Morro Bay 399 Area as described in the July 29, 2021, **Federal Register** Notice of Commercial Leasing for Wind Power Development on the Outer Continental Shelf Offshore Morro Bay, California, East and West Extensions—Call for Information and Nominations (86 FR 40869).[2] For more information, refer to the Notice of Intent (86 FR 62512) or visit *www.sanctuaries.noaa.gov/chumash-heritage.*

The designation process will be conducted concurrently with a public process under the National Environmental Policy Act to prepare an environmental impact statement. This public scoping process invites comments on the scope and significance of issues to be addressed in the environmental impact statement that are related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation process, including preparation and release of draft designation documents, and in formulating alternatives for the draft environmental impact statement, including developing national marine sanctuary boundaries, regulations, and a management plan. This scoping process will also inform the initiation of any consultations with Federal, State, or local agencies, tribes, and other interested parties, as appropriate.

NOAA has received requests for an extension of the public comment period and has decided to extend the comment period by 21 days to provide the public with additional time to provide comments. At this time, NOAA does not expect any changes to the Schedule for the Decision-Making Process outlined in Section IV of the Notice of Intent (86 FR 62512).

Authority: 16 U.S.C. 1431 *et seq.;* 42 U.S.C. 4321 *et seq.;* 40 CFR 1500–1508 (National Environmental Policy Act Implementing Regulations); Companion Manual for NOAA Administrative Order 216–6A.

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–27234 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–NK–P

[1] *https://nominate.noaa.gov/media/documents/nomination_chumash_heritage_071715.pdf.*

[2] *https://www.federalregister.gov/documents/2021/07/29/2021-16134/commercial-leasing-for-wind-power-development-on-the-outer-continental-shelf-ocs-offshore-morro-bay.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB522]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Issuance of Permit

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

ACTION: Notice; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is proposing to issue a permit to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in the California (CA) thresher shark/swordfish drift gillnet fishery and the corresponding high seas component of the fishery as defined on the MMPA List of Fisheries as the Pacific highly migratory species drift gillnet fishery.

DATES: Comments on this action and supporting documents must be received by January 18, 2022.

ADDRESSES: You may submit comments on the proposed permit and the preliminary determination supporting the permit, identified by NOAA–NMFS–2021–0105, through the Federal e-Rulemaking Portal:

1. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0105 in the Search box.

2. Click the ''Comment'' icon, and complete the required fields.

3. Enter or attach your comments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. Due to delays in processing mail related to COVID–19 and health and safety concerns, no mail, courier, or hand deliveries will be accepted. All comments received are a part of the public record and will generally be posted for public viewing

on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

The preliminary determination supporting the permit is available on the internet at *https://www.regulations.gov/docket/NOAA-NMFS-2021-0105.* Other supporting information is available on the internet including: Recovery plans for the ESA-listed marine mammal species, *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act*; 2021 MMPA List of Fisheries (LOF), *https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables*; the most recent Marine Mammal Stock Assessment Reports (SAR) by region, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region,* and stock, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock*; and Take Reduction Teams and Plans, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams.*

FOR FURTHER INFORMATION CONTACT: Tina Fahy, NMFS West Coast Region, (562) 980–4023, *Christina.Fahy@noaa.gov*; or Jaclyn Taylor, NMFS Office of Protected Resources, (301) 427–8402, *Jaclyn.Taylor@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) The incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed; and (3) where required under MMPA section 118, a take reduction plan has been developed or is being developed, a monitoring program is implemented, and vessels participating in the fishery are registered. We have made a preliminary determination that the CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery meets these three requirements and propose to issue a permit to the fishery to authorize the incidental take of ESA-listed marine mammal species or stocks (CA/OR/WA stock of humpback whale and CA/OR/WA stock of sperm whale) under the MMPA for a period of three years. We solicit public comments on the proposed issuance of the permit and the underlying preliminary determination.

Background

The MMPA List of Fisheries (LOF) classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals occurring incidental to each fishery as defined in 50 CFR 229.2. Category I and II fisheries must register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to three years shall allow the incidental, but not intentional, taking of marine mammal stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.,* by persons using vessels of the United States and those vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1824(b), while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) Incidental M/SI from commercial fisheries will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. We evaluated ESA-listed stocks or species included on the final 2021 MMPA LOF as killed or seriously injured following NMFS' Procedural Directive 02–238 ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals.'' Based on this evaluation, we propose to issue a permit under MMPA section 101(a)(5)(E) to vessels registered in the Category II CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery, as classified on the final 2021 MMPA LOF, to incidentally kill or seriously injure the CA/OR/WA stock of humpback whale and CA/OR/WA stock of sperm whale.

NMFS will regularly evaluate other commercial fisheries for purposes of making a negligible impact determination (NID) and issuing section 101(a)(5)(E) authorizations with the annual LOF as new information becomes available. More information about the CA thresher shark/swordfish drift gillnet and Pacific highly migratory species drift gillnet fishery is available in the 2021 MMPA LOF (86 FR 3028; January 14, 2021) and on the internet at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables.*

We reviewed the best available scientific information to determine if the fishery met the three requirements of MMPA section 101(a)(5)(E) for issuing a permit. This information is included in the 2021 MMPA LOF (86 FR 3028; January 14, 2021), the SARs for these species (available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*), recovery plans for these species (available at: *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act*), and other relevant information, as detailed further in the document describing the preliminary determination supporting the permit (available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0105*).

NMFS is in the process of revising humpback whale stock structure under the MMPA in light of the 14 Distinct Population Segments (DPSs) established under the ESA (81 FR 62259, September 8, 2016), based on the recently finalized ''Procedural Directive 02–204–03: Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act'' (NMFS 2019). The humpback whale DPSs that occur in waters under the jurisdiction of the United States do not align with the existing MMPA stocks. Some of the listed DPSs partially coincide with the currently defined stocks. Because we cannot manage one

portion of an MMPA stock as ESA-listed and another portion of a stock as not ESA-listed, until such time as the MMPA stock designations are revised in light of the ESA-listed DPSs, NMFS continues to use the existing MMPA stock structure for MMPA management purposes (*e.g.,* selection of a recovery factor, stock status) and treats such stocks as ESA-listed if a component of that stock is listed under the Act and overlaps with the analyzed commercial fishery. Therefore, for the purpose of this MMPA 101(a)(5)(E) authorization, NMFS considered the CA/OR/WA stock of humpback whale to be ESA-listed as it overlaps with the two ESA-listed DPSs (Mexico, and Central America).

Basis for Determining Negligible Impact

Prior to issuing a MMPA 101(a)(5)(E) permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine if the M/SI incidental to commercial fisheries will have a negligible impact on the affected marine mammal species or stocks. NMFS satisfies this requirement by making a NID. Although the MMPA does not define ''negligible impact,'' NMFS has issued regulations providing a qualitative definition of ''negligible impact,'' defined in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Criteria for Determining Negligible Impact

NMFS relies on a quantitative approach for determining negligible impact detailed in NMFS Procedural Directive 02–204–02 (directive), ''Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E),'' which became effective on June 17, 2020 (NMFS 2020). The procedural directive is available online at: *https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives.* The directive describes NMFS' process for determining whether incidental M/SI from commercial fisheries will have a negligible impact on ESA-listed marine mammal species/stocks (the first requirement necessary for issuing a MMPA section 101(a)(5)(E) permit as noted above).

The directive first describes the derivation of two Negligible Impact Thresholds (NIT), which represent levels of removal from a marine mammal species or stock. The first, Total Negligible Impact Threshold (NIT_t), represents the total amount of human-caused M/SI that NMFS considers negligible for a given stock. The second, lower threshold, Single NIT (NIT_s) represents the level of M/SI from a single commercial fishery that NMFS considers negligible for a stock. NIT_s was developed in recognition that some stocks may experience non-negligible levels of total human-caused M/SI but one or more individual fisheries may contribute a very small portion of that M/SI, and the effect of an individual fishery may be considered negligible.

The directive describes a detailed process for using these NIT values to conduct a NID analysis for each fishery classified as a Category I or II fishery on the MMPA LOF. The NID process uses a two-tiered analysis. The Tier 1 analysis first compares the total human-caused M/SI for a particular stock to NIT_t. If NIT_t is not exceeded, then all commercial fisheries that kill or seriously injure the stock are determined to have a negligible impact on the particular stock. If NIT_t is exceeded, then the Tier 2 analysis compares each individual fishery's M/SI for a particular stock to NIT_s. If NIT_s is not exceeded, then the commercial fishery is determined to have a negligible impact on that particular stock. For transboundary, migratory stocks, because of the uncertainty regarding the M/SI that occurs outside of U.S. waters, we assume that total M/SI exceeds NIT_t and proceed directly to the Tier 2 NIT_s analysis. If a commercial fishery has a negligible impact across all ESA-listed stocks, then the first of three findings necessary for issuing a MMPA 101(a)(5)(E) permit to the commercial fishery has been met (*i.e.,* a negligible impact determination). If a commercial fishery has a non-negligible impact on any ESA-listed stock, then NMFS cannot issue a MMPA 101(a)(5)(E) permit for the fishery to incidentally take ESA-listed marine mammals.

These NID criteria rely on the best available scientific information, including estimates of a stock's minimum population size and human-caused M/SI levels, as published in the most recent SARs and other supporting documents, as appropriate. Using these inputs, the quantitative negligible impact thresholds allow for straightforward calculations that lead to clear negligible or non-negligible impact determinations for each commercial fishery analyzed. In rare cases, robust data may be unavailable for a straightforward calculation, and the directive provides instructions for completing alternative calculations or assessments where appropriate.

Negligible Impact Determination

NMFS evaluated the impact of the CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery following the directive, and, based on the best available scientific information, made a draft NID.

The CA/OR/WA stock of humpback whale is a transboundary stock. As noted above, because of the uncertainty regarding M/SI that occurs outside of U.S. waters for transboundary stocks, we assumed that total M/SI exceeds NIT_t and proceeded directly to the Tier 2 NIT_s analysis. The CA/OR/WA stock of humpback whale has documented incidental M/SI with this fishery in the most recent (2021) draft CA/OR/WA humpback whale SAR (Carretta *et al.* 2021). The estimated annual M/SI of humpback whales (CA/OR/WA stock) in the CA drift gillnet fishery is 0.1, based on observer data. Since this M/SI (0.1) is less than NIT_s (2.48), NMFS determined that the CA drift gillnet fishery/Pacific highly migratory species drift gillnet fishery has a negligible impact on the CA/OR/WA stock of humpback whales (see accompanying MMPA 101(a)(5)(E) determination document linked above for NIT calculations).

The draft 2021 SAR includes mean annual total commercial fishery-related M/SI (≥25.2) for the CA/OR/WA stock of humpback whale. This comprises M/SI from all commercial fisheries, including the CA thresher shark/swordfish drift gillnet fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (11.15) for the stock, which is not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of commercial, recreational or tribal fisheries, including the CA thresher shark/swordfish drift gillnet fishery. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for the NID Tier 2 analysis. In addition, because the CA/OR/WA humpback whale stock is considered to be a transboundary stock, NMFS assumed NIT_t is exceeded and conducted the more conservative Tier 2 analysis with the lower NIT_s criterion. NMFS is actively monitoring the CA thresher shark/swordfish drift gillnet fishery through a fishery observer program. Further, most of the information on large whale entanglements on the West Coast is reported to and documented by the West Coast Large Whale Entanglement

Response Program. If additional fishery-related M/SI of the CA/OR/WA stock of humpback whale is documented through the observer program or West Coast Large Whale Entanglement Response Program that indicates additional M/SI of the CA/OR/WA stock of humpback whale in the CA thresher shark/swordfish drift gillnet fishery, then NMFS will re-evaluate the NID and the permit.

The CA/OR/WA stock of sperm whale has documented incidental M/SI with this fishery in the most recent (2019) final CA/OR/WA sperm whale SAR (Carretta et al. 2020). The total annual average human-caused M/SI for the CA/OR/WA stock of sperm whales from 2013–2017 is 0.64, including 0.4 per year for the CA thresher shark/swordfish drift gillnet fishery and 0.24 per year for the sablefish hook and line fishery (Carretta et al. 2020). There was no other human-related M/SI of the CA/OR/WA stock of sperm whale reported during this time period. Since M/SI (0.64) is less than NIT_t (2.54), the CA drift gillnet fishery/Pacific highly migratory species drift gillnet fishery is considered to have a negligible impact on the CA/OR/WA stock of sperm whales.

The NID analysis is presented in an accompanying MMPA 101(a)(5)(E) determination document that provides summaries of the information used to evaluate each ESA-listed stock documented on the 2021 MMPA LOF as killed or injured incidental to the fishery (available at: *https://www.fisheries.noaa.gov/action/mmpa-list-fisheries-2021*). The draft MMPA 101(a)(5)(E) determination document is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0105.* Based on the criteria outlined in the directive, the most recent SAR, and the best available scientific information, NMFS has determined that the M/SI incidental to the Category II CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery will have a negligible impact on the associated ESA-listed marine mammal stocks (CA/OR/WA stock of humpback whale and CA/OR WA stock of sperm whale). Accordingly, this MMPA 101(a)(5)(E) requirement is satisfied for the commercial fishery (see draft MMPA 101(a)(5)(E) determination document is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0105*).

Recovery Plan

Recovery plans for humpback whales and sperm whales have been completed (see *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act*). Accordingly, the requirement to have recovery plans in place or being developed is satisfied.

Take Reduction Plan

Subject to available funding, MMPA section 118 requires the development and implementation of a Take Reduction Plan (TRP) for each strategic stock that interacts with a Category I or II fishery. The stocks considered for this permit are designated as a strategic stock under the MMPA because the stocks, or a component of the stocks, are listed as threatened or endangered under the ESA (MMPA section 3(19)(C)).

The CA thresher shark/swordfish drift gillnet fishery, for the affected marine mammal species or stocks, has a TRP in place. Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied (see preliminary determination supporting the permit available on the internet at *https://www.regulations.gov/docket/NOAA-NMFS-2021-0105*).

Monitoring Program

Under MMPA section 118(d), NMFS is to establish a program for monitoring incidental M/SI of marine mammals from commercial fishing operations. The CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery has been observed by NMFS since 1990. Accordingly, the requirement under MMPA section 118 to have a monitoring program in place is satisfied.

Vessel Registration

MMPA section 118(c) requires that vessels participating in Category I and II fisheries register to obtain an authorization to take marine mammals incidental to fishing activities. NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program, with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Therefore, the requirement for vessel registration is satisfied.

Conclusions for Proposed Permit

Based on the above evaluation for the CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery as it relates to the three requirements of MMPA section 101(a)(5)(E), we propose to issue a MMPA 101(a)(5)(E) permit to the commercial fishery to authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the 3-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment. NMFS solicits public comments on the proposed permit and the preliminary determination supporting the permit.

ESA Section 7 and National Environmental Policy Act Requirements

ESA section 7(a)(2) requires federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of the CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery on ESA-listed marine mammals for which a permit is proposed here, were analyzed in the appropriate ESA section 7 Biological Opinion on the commercial fishery, and incidental take was exempted for those ESA-listed marine mammals for the fishery.

Under section 7 of the ESA, Biological Opinions quantify the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, authorize anticipated future take of ESA-listed species as specified in the incidental take statement. Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the negligible impact determination process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, may not always align.

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because the proposed permit would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the associated Fishery Management Plan is required for the permit. Issuing the proposed permit would have no additional impact on the human

environment or effects on threatened or endangered species beyond those analyzed in these documents.

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Dated: December 13, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–27278 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA203]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical Surveys in the Southeastern Gulf of Mexico

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Scripps Institution of Oceanography (Scripps) for authorization to take marine mammals incidental to marine geophysical surveys in the southeastern Gulf of Mexico. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible 1 year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than January 18, 2022.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to *ITP.Fowler@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO)

216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On March 17, 2020, NMFS received a request from Scripps for an IHA to take marine mammals incidental to low-energy geophysical surveys in the southeastern Gulf of Mexico, initially planned to occur in summer 2020. The application was deemed adequate and complete on May 26, 2020. On June 9, 2020, Scripps notified NMFS that the proposed survey had been postponed and tentatively rescheduled for summer 2021. On April 8, 2021, Scripps notified NMFS that the survey had been further postponed and is now proposed to occur in July-August 2022. NMFS has reviewed recent draft Stock Assessment Reports and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected, the potential effects to marine mammals and their habitat as described in the IHA application, or any other aspect of the analysis. Therefore, NMFS has determined that Scripps' IHA application remains adequate and complete. Scripps' request is for take of 20 species of marine mammals by Level B harassment only. Neither Scripps nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Scripps plans to support a research project that would involve low-energy seismic surveys in the Gulf of Mexico during summer 2022. The study would be conducted on the R/V *Justo Sierra,* owned by Universidad Nacional Autónoma de México (UNAM), using a portable multi-channel seismic (MCS) system operated by marine technicians from Scripps. The survey would use a pair of low-energy Generator-Injector (GI) airguns with a total discharge volume of 90 cubic inches (in^3). The surveys would take place within the Exclusive Economic Zones (EEZs) of Mexico and Cuba in the southeastern Gulf of Mexico.

Dates and Duration

The specific dates of the survey have not been determined but the cruise is expected to occur in July to August 2022. The proposed research cruise is expected to consist of 15 days at sea, including ~12 days of seismic operations (10 planned days and 2 contingency days) and ~3 days of transit. R/V *Justo Sierra* would depart from Tampamochaco, Mexico and return to Progreso, Mexico after the program is completed.

Specific Geographic Region

The proposed surveys would take place in the Gulf of Mexico between ~22°-25° N and 83.8°-88° W (see Figure 1). Seismic acquisition would occur in two primary survey areas. The Yucatán Channel survey area is located in the deep-water channel between the Campeche and Florida escarpments, within the EEZ of Cuba in water depths ranging from ~1,500 to 3,600 meters (m; 4,921 to 11,811 feet (ft)). The Campeche Bank survey area is located in the northeastern flank of the Campeche escarpment, within the EEZs of Cuba and Mexico in waters ranging in depth from ~110 to 3,000 m (361 to 9,843 ft).

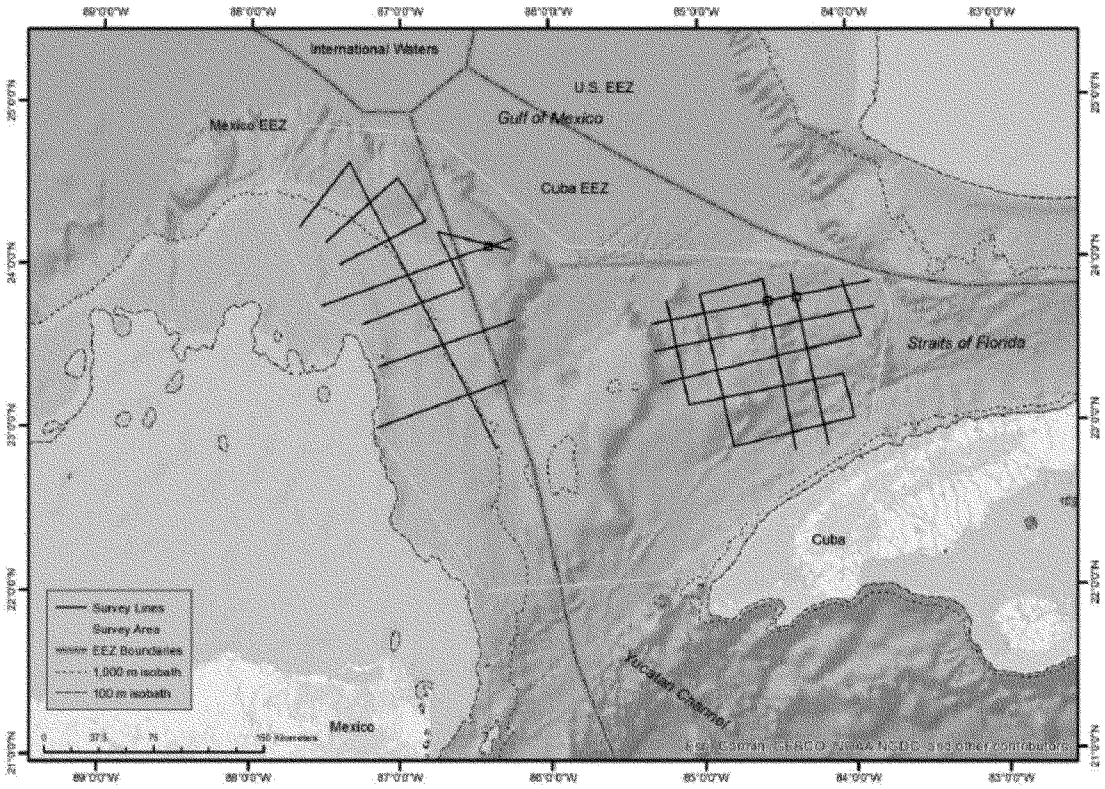

Figure 1. Location of the proposed low-energy seismic surveys in the southeastern Gulf of Mexico

Detailed Description of Specific Activity

The proposed project consists of low-energy seismic surveys to image sediment drifts along Campeche Bank and in the deep water north of Yucatán Channel in order to reconstruct bottom water current changes through the Cenozoic era. Data collected would also be used to inform potential future site locations for the International Ocean Discovery Program (IODP). To achieve the program's goals, researchers from UNAM and the University of Texas Institute of Geophysics (UTIG) propose to collect low-energy, high-resolution MCS profiles.

The surveys would involve one source vessel, the R/V *Justo Sierra,* using the portable MCS system operated by marine technicians from Scripps. R/V *Justo Sierra* would deploy up to two 45-in^3 GI airguns as an energy source with a maximum total discharge volume of ~90 in^3. The generator chamber of each GI gun, the one responsible for introducing the sound pulse into the ocean, is 45 in^3. The larger (105 in^3) injector chamber injects air into the previously generated bubble to maintain its shape and does not introduce more sound into the water. The two 45-in^3 GI airguns would be spaced 2 m (6.6 ft) apart, and towed 25 m (82 ft) behind the R/V *Justo Sierra* at a depth of 2–4 m (6.6–13.1 ft). An operational speed of ~7.4–9.3 kilometers (km) per hour (~4–5 knots) would be used during seismic acquisition, and seismic pulses would be emitted at intervals of 8–10 seconds from the GI airguns. The receiving system would consist of one hydrophone streamer, 1,500 m (4,921 ft) in length. As the airguns are towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the on-board processing system.

The proposed cruise would acquire ~2,171 km (~1,349 miles) of seismic data in the southeastern Gulf of Mexico. All survey effort proposed in the Yucatán Channel survey area would occur in water >1,000 m (3,281 ft) deep. In the Campeche Bank survey area, approximately 80 percent of survey effort would occur in deep water, and 20 percent would occur in intermediate water 100–1,000 m (328–3,281 ft) deep. No survey effort is proposed in waters less than 100 m (328 ft) deep.

In the Yucatán Channel survey area, a grid is proposed that consists of southwest-northeast trending strike profiles with crossing dip profiles to provide images of the deep water connection between the Straits of Florida and the basinal southeastern Gulf of Mexico (see Figure 1). In the Campeche Bank survey area, several long dip profiles would be acquired that are connected by several strike lines. The survey area also includes three proposed sites for future IODP coring (one in the Campeche Bank survey area and two within the Yucatán Channel survey area, all within the EEZ of Cuba). Around each site, an additional survey of a single 5 km by 5 km (3.1 by 3.1 miles) box would be conducted around the proposed site to better characterize the sediments and provide a number of options to choose the ideal location for proposed future drilling.

A hull-mounted multi-beam echosounder (MBES) and an Acoustic Doppler Current Profiler (ADCP) would also be operated from the R/V *Justo Sierra* continuously throughout the seismic surveys, but not during transits or and from the survey area or when airguns are not operating. All planned geophysical data acquisition activities would be conducted by Scripps and UNAM with on-board assistance by the scientists who have proposed the studies. The vessel would be self-contained, and the crew would live aboard the vessel. Take of marine mammals is not expected to occur incidental to use of the MBES or ADCP because, whether or not the airguns are

operating simultaneously with the other sources, given their characteristics (*e.g.,* narrow downward-directed beam), marine mammals would experience no more than one or two brief ping exposures, if any exposure were to occur. NMFS does not expect that use of these sources presents any reasonable potential to cause take of marine mammals.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. We refer the reader to these descriptions, incorporated here by reference, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For most species, stock abundance estimates are based on sightings within the U.S. EEZ, however for some species, this geographic area may extend beyond U.S. waters. Other species may use survey abundance estimates. Survey abundance (as compared to stock or species abundance) is the total number of individuals estimated within the survey area, which may or may not align completely with a stock's geographic range as defined in the SARs. These surveys may also extend beyond U.S. waters. In this case, the proposed survey area outside of the U.S. EEZ does not necessarily overlap with the ranges for stocks managed by NMFS. However, we assume that individuals of these species that may be encountered during the survey may be part of those stocks.

All managed stocks in this region are assessed in NMFS's U.S. Atlantic and Gulf of Mexico SARs (*e.g.,* Hayes *et al.,* 2021). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2020 SARs (Hayes *et al.,* 2021) and draft 2021 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

For the majority of species potentially present in the specified geographical region, NMFS has designated only a single generic stock (*i.e.,* ''Gulf of Mexico'') for management purposes, although there is currently no information to differentiate the stock from the Atlantic Ocean stock of the same species, nor information on whether more than one stock may exist in the GOM (Hayes *et al.,* 2017).

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]	Gulf of Mexico population abundance (Roberts *et al.,* 2016) [4]
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Physeteridae:							
Sperm whale	Physeter macrocephalus.	Gulf of Mexico	E/D; Y	1,180 (0.22, 983, 2018)	2	9.6	2,207
Family Kogiidae:							
Pygmy sperm whale [6].	Kogia breviceps	Gulf of Mexico	-/-; N	336 (0.35, 253, 2018)	2.5	31	4,373
Dwarf sperm whale [6].	Kogia sima.						
Family Ziphiidae (beaked whales):							
Cuvier's beaked whale [6].	Ziphius cavirstris	Gulf of Mexico	-/-; N	18 (0.75, 10, 2018)	0.1	5.2	3,768
Blainville's beaked whale [6].	Mesoplodon densirostris	Gulf of Mexico	-/-; N	98 (0.46, 68, 2018)	0.7	5.2.	
Gervais' beaked whale [6].	Mesoplodon europaeus	Gulf of Mexico	-/-; N	20 (0.98, 10, 2018)	0.1	5.2.	
Family Delphinidae:							
Rough-toothed dolphin.	Steno bredanensis	Gulf of Mexico	-/-; N	unknown (n/a, unknown, 2018).	undetermined	39	4,853
Bottlenose dolphin	Tursiops truncatus	Gulf of Mexico Oceanic.	-/-; N	7,462 (0.31, 5,769, 2018).	58	32	[6] 176,108
Pantropical spotted dolphin.	Stenella attenuata	Gulf of Mexico	-/-; N	37,195 (0.24, 30,377, 2018).	304	241	102,361
Atlantic spotted dolphin.	Stenella frontalis	Gulf of Mexico	-/-; N	21,506 (0.26, 17,339, 2018).	166	36	74,785

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]	Gulf of Mexico population abundance (Roberts *et al.,* 2016) [4]
Spinner dolphin	Stenella longirostris	Gulf of Mexico	-/-; Y	2,991 (0.54, 1,954, 2018).	20	113	25,114
Clymene dolphin	Stenella clymene	Gulf of Mexico	-/-; Y	513 (1.03, 250, 2018)	2.5	8.4	11,895
Striped dolphin	Stenella coeruleoalba	Gulf of Mexico	-/-; Y	1,817 (0.56, 1,172, 2018).	12	13	5,229
Fraser's dolphin	Lagenodelphis hosei	Gulf of Mexico	-/-; N	213 (1.03, 104, 2018)	1	Unknown	1,665
Risso's dolphin	Grampus griseus	Gulf of Mexico	-/-; N	1,974 (0.46, 1,368, 2018).	14	5.3	3,764
Melon-headed whale.	Peponocephala electra	Gulf of Mexico	-/-; N	1,749 (0.68, 1,039, 2018).	10	9.5	7,003
Pygmy killer whale	Feresa attenuata	Gulf of Mexico	-/-; N	613 (1.15, 283, 2018)	2.8	1.6	2,126
False killer whale	Pseudorca crassidens	Gulf of Mexico	-/-; N	494 (0.79, 276, 2018)	2.8	Unknown	3,204
Killer whale	Orcinus orca	Gulf of Mexico	-/-; N	267 (0.75, 152, 2018)	1.5	Unknown	185
Short-finned pilot whale.	Globicephalus macrorhynchus.	Gulf of Mexico	-/-; N	1,321 (0.43, 934, 2018)	7.5	3.9	1,981

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual mortality/serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] This information represents species- or guild-specific best abundance estimate predicted by habitat-based cetacean density models (Roberts *et al.,* 2016). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Gulf of Mexico, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area. For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For more information, see *https://seamap.env.duke.edu/models/Duke/GOM/.*

[5] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. NMFS's SARs present pooled abundance estimates for *Kogia* spp. and *Mesoplodon* spp., while Roberts *et al.* (2016) produced density models to genus level for *Kogia* spp. and as a guild for beaked whales (*Ziphius cavirostris* and *Mesoplodon* spp.). Finally, Roberts *et al.* (2016) produced a density model for bottlenose dolphins that does not differentiate between oceanic, shelf, and coastal stocks.

In Table 1 above, we report two sets of abundance estimates: Those from NMFS SARs and those predicted by Roberts *et al.* (2016). Please see the table footnotes for more detail. NMFS's SAR estimates are typically generated from the most recent shipboard and/or aerial surveys conducted. The Roberts *et al.* (2016) abundance estimates represent the output of predictive models derived from multi-year observations and associated environmental parameters and which incorporate corrections for detection bias. Incorporating more data over multiple years of observation can yield different results in either direction, as the result is not as readily influenced by fine-scale shifts in species habitat preferences or by the absence of a species in the study area during a given year. NMFS's abundance estimates show substantial year-to-year variability in some cases. For example, NMFS-reported estimates for the Clymene dolphin vary by a maximum factor of more than 100 (2009 estimate of 129 versus 1996–2001 estimate of 17,355), indicating that it may be more appropriate to use the model prediction versus a point estimate, as the model incorporates data from 1992–2009. The latter factor—incorporation of correction for detection bias—should systematically result in greater abundance predictions. For these reasons, we expect that the Roberts *et al.* (2016) estimates are generally more realistic and, for these purposes, represent the best available information. For purposes of assessing estimated exposures relative to abundance—used in this case to understand the scale of the predicted takes compared to the population—we generally believe that the Roberts *et al.* (2016) abundance predictions are most appropriate because they were used to generate the exposure estimates and therefore provide the most relevant comparison (see Estimated Take). Roberts *et al.* (2016) represents the best available scientific information regarding marine mammal occurrence and distribution in the Gulf of Mexico.

As the planned survey lines are outside of the U.S. EEZ, they do not directly overlap with the defined stock ranges within the Gulf of Mexico (Hayes *et al.,* 2021). However, some of the survey lines occur near the U.S. EEZ, and the distribution and abundance of species in U.S. EEZ waters are assumed representative of those in the survey area. As indicated above, all 20 species (with 20 representative stocks in the northern Gulf of Mexico) in Table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. All species that could potentially occur in the proposed survey areas are included in Table 2 of the IHA application. While fin whales (*Balaenoptera physalus*), Rice's whales (*Balaenoptera ricei,* formerly known as Gulf of Mexico Bryde's whales), minke whales (*Balaenoptera acutorostrata*), and humpback whales (*Megaptera novaeangliae*) have the potential to occur in the southeast Gulf of Mexico, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. These species, and other mysticete species for which there exist rare sighting or stranding records, are considered only of accidental occurrence in the Gulf of Mexico and are generally historically known only from a very small number of strandings and/or sightings (Würsig *et al.,* 2000; Würsig, 2017).

The fin whale is widely distributed in all the world's oceans (Gambell 1985), although it is most abundant in

temperate and cold waters (Aguilar and García-Vernet 2018). The fin whale is the second-most frequently reported mysticete in the Gulf of Mexico (after the Rice's whale), though with only a handful of stranding and sighting records, and is considered here as a rare and likely accidental migrant. Roberts *et al.* (2016) developed a stratified density model for the fin whale in the Gulf of Mexico, on the basis of one observation during an aerial survey in the early 1990s. As noted by the model authors, while the probability of a chance encounter is not zero, the single sighting during NMFS survey effort should be considered extralimital (Roberts *et al.,* 2015a). Duke University's Ocean Biodiversity Information System Spatial Ecological Analysis of Megavertebrate Populations (OBIS–SEAMAP) database includes 12 records of fin whales in the Gulf of Mexico, including six in the southern Gulf (OBIS 2020). Ortega-Ortiz (2002) reported a fin whale at the Campeche Escarpment but no sightings of fin whales have been reported in the Gulf of Mexico since 1998 (Roberts *et al.,* 2016).

Rice's whales are the only baleen whale to occur in the Gulf of Mexico on a regular basis throughout the year (Wursig *et al.,* 2000) but according to Ortega-Ortiz (2000), they do not appear to occur in the southern Gulf of Mexico in Mexican and Cuban waters. Rice's whale calls were not detected via passive acoustic recorders at the Dry Tortugas or in the north-central GoM (south of Alabama) at Main Pass (Širović *et al.,* 2014). The OBIS database includes 30 observation records for the northern Gulf of Mexico, but no records for the southern Gulf (OBIS 2020).

The minke whale has a cosmopolitan distribution ranging from the tropics and subtropics to the ice edge in both hemispheres (Jefferson *et al.,* 2015). Although widespread and common overall, they are rare in the Gulf of Mexico (Würsig *et al.,* 2000). Würsig *et al.* (2000) reported ten strandings for the Gulf including the Florida Keys; the strandings occurred in the winter and spring and may have been northbound whales from the open ocean or Caribbean Sea. Based on Ortega-Ortiz (2002), the only record of a minke whale in the southern Gulf of Mexico is a single whale recorded as stranded at Celestún, on the northwestern coast of the Yucatán Peninsula.

Although humpback whales only occur rarely in the Gulf of Mexico, several sightings have been made off the west coast of Florida, near Alabama, and off Texas (Würsig *et al.,* 2000); these may have been individuals from the West Indian winter grounds that strayed into the GoM during migration (Weller *et al.,* 1996; Jefferson and Schiro 1997). In addition, Würsig *et al.* (2000) reported that humpback songs have also been recorded with hydrophones in the northwestern Gulf of Mexico, and there are two stranding records. Humpbacks have also been sighted off the northwest coast of Cuba (Whitt *et al.,* 2011). There are 35 records in the OBIS database for the Gulf, including records for the Campeche Bank survey area, Straits of Florida, and northwestern Cuba.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall et al. 2007) and PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Twenty species of cetacean have the reasonable potential to co-occur with the proposed survey activities. No pinnipeds are expected to be present or taken. Of the cetacean species that may be present, 18 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale) and two are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and *Kogia* spp.). No low-frequency cetaceans (*i.e.,* baleen whales) are expected to be present or taken.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals

that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Active Acoustic Sound Sources

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)) and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa) while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for pulses produced by the airguns considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf sound becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;
- *Biological:* Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and
- *Anthropogenic:* Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Airguns produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

As described above, a hull-mounted MBES and an ADCP would also be operated from the R/V *Justo Sierra* continuously throughout the seismic surveys, but not during transits or and from the survey area or when airguns are not operating. Each ping emitted by the MBES consists of eight (in water >1,000 m deep) or four (<1,000 m) successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore–aft. Given the movement and speed of the vessel, the intermittent and narrow downward-directed nature of the sounds emitted by the MBES mean that no exposure of marine mammals is likely to occur. In the unlikely event that exposure did occur, it would result in no more than one or two brief ping exposures of any individual marine mammal. Due to the lower source level of the ADCP relative to the R/V *Justo Sierra's* airguns, sounds from the SBP and ADCP are expected to be effectively subsumed by sounds from the airguns. Thus, any marine mammal potentially exposed to sounds from the ADCP would already have been exposed to sounds from the airguns, which are expected to propagate further in the water. As such, we conclude that the likelihood of marine mammal take resulting from exposure to sound from the MBES or ADCP is discountable and therefore we do not consider noise from the MBES or ADCP further in this analysis.

Acoustic Effects

Here, we discuss the effects of active acoustic sources on marine mammals.

Potential Effects of Underwater Sound—Please refer to the information given previously (''Description of Active Acoustic Sources'') regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airguns.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss

of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007; Houser, 2021). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dBs above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as airgun pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (*e.g.,* Nachtigall and Supin, 2013; Miller *et al.,* 2012; Finneran *et al.,* 2015; Popov *et al.,* 2016).

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in three captive bottlenose dolphins before and after exposure to ten pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2016a).

Behavioral Effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a

''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a, b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Visual tracking, passive acoustic monitoring, and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.,* 2006; Miller *et al.,* 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal (buzz) rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods (Miller *et al.,* 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.,* 2009).

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007, 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale breeding activity was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and

airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 hours (h) of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 μPa^2-s caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.,* 10-minute cumulative SEL (SEL_{cum}) of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.,* 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Humpback whales showed avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.,* 2000). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5 day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 in^3 or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during and post-seismic survey (Gailey *et al.,* 2016). Behavioral state and water depth were the best 'natural' predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

Stress Responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood

pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are few specific data on this. Because of the intermittent nature and low duty cycle of seismic pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in exceptional situations, reverberation occurs for much or all of the interval between pulses (*e.g.,* Simard *et al.* 2005; Clark and Gagnon 2006), which could mask calls. Situations with prolonged strong reverberation are infrequent. However, it is common for reverberation to cause some lesser degree of elevation of the background level between airgun pulses (*e.g.,* Gedamke 2011; Guerra *et al.* 2011, 2016; Klinck *et al.* 2012; Guan *et al.* 2015), and this weaker reverberation presumably reduces the detection range of calls and other natural sounds to some degree. Guerra *et al.* (2016) reported that ambient noise levels between seismic pulses were elevated as a result of reverberation at ranges of 50 km from the seismic source. Based on measurements in deep water of the Southern Ocean, Gedamke (2011) estimated that the slight elevation of background levels during intervals between pulses reduced blue and fin

whale communication space by as much as 36–51 percent when a seismic survey was operating 450–2,800 km away. Based on preliminary modeling, Wittekind *et al.* (2016) reported that airgun sounds could reduce the communication range of blue and fin whales 2000 km from the seismic source. Nieukirk *et al.* (2012) and Blackwell *et al.* (2013) noted the potential for masking effects from seismic surveys on large whales.

Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls usually can be heard between the pulses (*e.g.,* Nieukirk *et al.* 2012; Thode *et al.* 2012; Bröker *et al.* 2013; Sciacca *et al.* 2016). As noted above, Cerchio *et al.* (2014) suggested that the breeding display of humpback whales off Angola could be disrupted by seismic sounds, as singing activity declined with increasing received levels. In addition, some cetaceans are known to change their calling rates, shift their peak frequencies, or otherwise modify their vocal behavior in response to airgun sounds (*e.g.,* Di Iorio and Clark 2010; Castellote *et al.* 2012; Blackwell *et al.* 2013, 2015). The hearing systems of baleen whales are undoubtedly more sensitive to low-frequency sounds than are the ears of the small odontocetes that have been studied directly (*e.g.,* MacGillivray *et al.* 2014). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking. In general, masking effects of seismic pulses are expected to be minor, given the normally intermittent nature of seismic pulses.

Ship Noise

Vessel noise from the R/V *Justo Sierra* could affect marine animals in the proposed survey areas. Houghton *et al.* (2015) proposed that vessel speed is the most important predictor of received noise levels, and Putland *et al.* (2017) also reported reduced sound levels with decreased vessel speed. Sounds produced by large vessels generally dominate ambient noise at frequencies from 20 to 300 Hz (Richardson *et al.* 1995). However, some energy is also produced at higher frequencies (Hermannsen *et al.* 2014); low levels of high-frequency sound from vessels has been shown to elicit responses in harbor porpoise (Dyndo *et al.* 2015). Increased levels of ship noise have been shown to affect foraging by porpoise (Teilmann *et al.* 2015; Wisniewska *et al.* 2018); Wisniewska *et al.* (2018) suggest that a decrease in foraging success could have long-term fitness consequences.

Ship noise, through masking, can reduce the effective communication distance of a marine mammal if the frequency of the sound source is close to that used by the animal, and if the sound is present for a significant fraction of time (*e.g.,* Richardson *et al.* 1995; Clark *et al.* 2009; Jensen *et al.* 2009; Gervaise *et al.* 2012; Hatch *et al.* 2012; Rice *et al.* 2014; Dunlop 2015; Erbe *et al.* 2015; Jones *et al.* 2017; Putland *et al.* 2017). In addition to the frequency and duration of the masking sound, the strength, temporal pattern, and location of the introduced sound also play a role in the extent of the masking (Branstetter *et al.* 2013, 2016; Finneran and Branstetter 2013; Sills *et al.* 2017). Branstetter *et al.* (2013) reported that time-domain metrics are also important in describing and predicting masking. In order to compensate for increased ambient noise, some cetaceans are known to increase the source levels of their calls in the presence of elevated noise levels from shipping, shift their peak frequencies, or otherwise change their vocal behavior (*e.g.,* Parks *et al.* 2011, 2012, 2016a,b; Castellote *et al.* 2012; Melcón *et al.* 2012; Azzara *et al.* 2013; Tyack and Janik 2013; Luís *et al.* 2014; Sairanen 2014; Papale *et al.* 2015; Bittencourt *et al.* 2016; Dahlheim and Castellote 2016; Gospić and Picciulin 2016; Gridley *et al.* 2016; Heiler *et al.* 2016; Martins *et al.* 2016; O'Brien *et al.* 2016; Tenessen and Parks 2016). Harp seals did not increase their call frequencies in environments with increased low-frequency sounds (Terhune and Bosker 2016). Holt *et al.* (2015) reported that changes in vocal modifications can have increased energetic costs for individual marine mammals. A negative correlation between the presence of some cetacean species and the number of vessels in an area has been demonstrated by several studies (*e.g.,* Campana *et al.* 2015; Culloch *et al.* 2016).

Baleen whales are thought to be more sensitive to sound at these low frequencies than are toothed whales (*e.g.,* MacGillivray *et al.* 2014), possibly causing localized avoidance of the proposed survey area during seismic operations. Reactions of gray and humpback whales to vessels have been studied, and there is limited information available about the reactions of right whales and rorquals (fin, blue, and minke whales). Reactions of humpback whales to boats are variable, ranging from approach to avoidance (Payne 1978; Salden 1993). Baker *et al.* (1982, 1983) and Baker and Herman (1989) found humpbacks often move away when vessels are within several kilometers. Humpbacks seem less likely to react overtly when actively feeding than when resting or engaged in other activities (Krieger and Wing 1984, 1986). Increased levels of ship noise have been shown to affect foraging by humpback whales (Blair *et al.* 2016). Fin whale sightings in the western Mediterranean were negatively correlated with the number of vessels in the area (Campana *et al.* 2015). Minke whales and gray seals have shown slight displacement in response to construction-related vessel traffic (Anderwald *et al.* 2013).

Many odontocetes show considerable tolerance of vessel traffic, although they sometimes react at long distances if confined by ice or shallow water, if previously harassed by vessels, or have had little or no recent exposure to ships (Richardson *et al.* 1995). Dolphins of many species tolerate and sometimes approach vessels (*e.g.,* Anderwald *et al.* 2013). Some dolphin species approach moving vessels to ride the bow or stern waves (Williams *et al.* 1992). Pirotta *et al.* (2015) noted that the physical presence of vessels, not just ship noise, disturbed the foraging activity of bottlenose dolphins. Sightings of striped dolphin, Risso's dolphin, sperm whale, and Cuvier's beaked whale in the western Mediterranean were negatively correlated with the number of vessels in the area (Campana *et al.* 2015).

There are few data on the behavioral reactions of beaked whales to vessel noise, though they seem to avoid approaching vessels (*e.g.,* Würsig *et al.* 1998) or dive for an extended period when approached by a vessel (*e.g.,* Kasuya 1986). Based on a single observation, Aguilar Soto *et al.* (2006) suggest foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels.

In summary, project vessel sounds would not be at levels expected to cause anything more than possible localized and temporary behavioral changes in marine mammals, and would not be expected to result in significant negative effects on individuals or at the population level. In addition, in all oceans of the world, large vessel traffic is currently so prevalent that it is commonly considered a usual source of ambient sound (NSF–USGS 2011).

Ship Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal

at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.,* fin whales), which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.,* 2010; Gende *et al.,* 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 knots, and exceeded 90 percent at 17 knots. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.,* 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 knots. The chances of a lethal injury decline from approximately 80 percent at 15 knots to approximately 20 percent at 8.6 knots. At speeds below 11.8 knots, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward one hundred percent above 15 knots.

The R/V *Justo Sierra* travels at a speed of 4–5 knots during seismic acquisition. When not towing seismic equipment, the R/V *Justo Sierra* cruises at 12 knots and has a maximum speed of 12.5 knots. At survey speed, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). No such incidents were reported for geophysical survey vessels during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 knots) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95 percent CI = $0 - 5.5 \times 10^{-6}$; NMFS, 2013b). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we propose to require a robust ship strike avoidance protocol (see Proposed Mitigation), which we believe eliminates any foreseeable risk of ship strike. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), and the presence of marine mammal observers, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Stranding—When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that (A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004).

Use of military tactical sonar has been implicated in a majority of investigated stranding events. Most known stranding events have involved beaked whales, though a small number have involved deep-diving delphinids or sperm whales (*e.g.,* Mazzariol *et al.,* 2010; Southall *et al.,* 2013). In general, long duration (~1 second) and high-intensity sounds (≤235 dB SPL) have been implicated in stranding events (Hildebrand, 2004).

With regard to beaked whales, mid-frequency sound is typically implicated (when causation can be determined) (Hildebrand, 2004). Although seismic airguns create predominantly low-frequency energy, the signal does include a mid-frequency component. We have considered the potential for the proposed surveys to result in marine mammal stranding and have concluded that, based on the best available information, stranding is not expected to occur.

Effects to Prey—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. However, the reaction of fish to airguns depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Several studies have demonstrated that airgun sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017), though the bulk of studies indicate no or slight reaction to noise (*e.g.,* Miller and Cripps, 2013; Dalen and Knutsen, 1987; Pena *et al.,* 2013; Chapman and Hawkins, 1969; Wardle *et al.,* 2001; Sara *et al.,* 2007; Jorgenson and Gyselman, 2009; Blaxter *et al.,* 1981; Cott *et al.,* 2012; Boeger *et al.,* 2006), and that, most commonly, while there are likely to be impacts to fish as a result of noise from nearby airguns, such effects will be temporary. For example, investigators reported significant, short-term declines in commercial fishing catch rate of gadid fishes during and for up to five days after seismic survey operations, but the catch rate subsequently returned to normal (Engas *et al.,* 1996; Engas and Lokkeborg, 2002). Other studies have reported similar findings (Hassel *et al.,* 2004). Skalski *et al.* (1992) also found a reduction in catch rates—for rockfish (*Sebastes* spp.) in response to controlled airgun exposure—but suggested that the mechanism underlying the decline was not dispersal but rather decreased responsiveness to baited hooks associated with an alarm behavioral response. A companion study showed that alarm and startle responses were not sustained following the removal of the sound source (Pearson *et al.,* 1992). Therefore, Skalski *et al.* (1992) suggested that the effects on fish abundance may be transitory, primarily occurring during the sound exposure itself. In some cases, effects on catch rates are variable within a study, which may be more broadly representative of temporary displacement of fish in response to airgun noise (*i.e.,* catch rates may increase in some locations and decrease in others) than any long-term damage to the fish themselves (Streever *et al.,* 2016).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality and, in some studies, fish auditory systems have been damaged by airgun noise (McCauley *et al.,* 2003; Popper *et al.,* 2005; Song *et al.,* 2008). However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012b. (2012) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long—both of which are conditions unlikely to occur for this survey that is necessarily transient in any given location and likely result in brief, infrequent noise exposure to prey species in any given area. For this survey, the sound source is constantly moving, and most fish would likely avoid the sound source prior to receiving sound of sufficient intensity to cause physiological or anatomical damage. In addition, ramp-up may allow certain fish species the opportunity to move further away from the sound source.

A recent comprehensive review (Carroll *et al.,* 2017) found that results are mixed as to the effects of airgun noise on the prey of marine mammals. While some studies suggest a change in prey distribution and/or a reduction in prey abundance following the use of seismic airguns, others suggest no effects or even positive effects in prey abundance. As one specific example, Paxton *et al.* (2017), which describes findings related to the effects of a 2014 seismic survey on a reef off of North Carolina, showed a 78 percent decrease in observed nighttime abundance for certain species. It is important to note that the evening hours during which the decline in fish habitat use was recorded (via video recording) occurred on the same day that the seismic survey passed, and no subsequent data is presented to support an inference that the response was long-lasting. Additionally, given that the finding is based on video images, the lack of recorded fish presence does not support a conclusion that the fish actually moved away from the site or suffered any serious impairment. In summary, this particular study corroborates prior studies indicating that a startle response or short-term displacement should be expected.

Available data suggest that cephalopods are capable of sensing the particle motion of sounds and detect low frequencies up to 1–1.5 kHz, depending on the species, and so are likely to detect airgun noise (Kaifu *et al.,* 2008; Hu *et al.,* 2009; Mooney *et al.,* 2010; Samson *et al.,* 2014). Auditory injuries (lesions occurring on the statocyst sensory hair cells) have been reported upon controlled exposure to low-frequency sounds, suggesting that cephalopods are particularly sensitive to low-frequency sound (Andre *et al.,* 2011; Sole *et al.,* 2013). Behavioral responses, such as inking and jetting, have also been reported upon exposure to low-frequency sound (McCauley *et al.,* 2000b; Samson *et al.,* 2014). Similar to fish, however, the transient nature of the survey leads to an expectation that effects will be largely limited to behavioral reactions and would occur as a result of brief, infrequent exposures.

With regard to potential impacts on zooplankton, McCauley et al. (2017) found that exposure to airgun noise resulted in significant depletion for more than half the taxa present and that there were two to three times more dead zooplankton after airgun exposure compared with controls for all taxa, within 1 km of the airguns. However, the authors also stated that in order to have significant impacts on r-selected species (*i.e.,* those with high growth rates and that produce many offspring) such as plankton, the spatial or temporal scale of impact must be large in comparison with the ecosystem concerned, and it is possible that the findings reflect avoidance by zooplankton rather than mortality (McCauley et al., 2017). In addition, the results of this study are inconsistent with a large body of research that generally finds limited spatial and temporal impacts to zooplankton as a result of exposure to airgun noise (*e.g.,* Dalen and Knutsen, 1987; Payne, 2004; Stanley et al., 2011). Most prior research on this topic, which has focused on relatively small spatial scales, has showed minimal effects (*e.g.,* Kostyuchenko, 1973; Booman et al., 1996; Sætre and Ona, 1996; Pearson et al., 1994; Bolle et al., 2012).

A modeling exercise was conducted as a follow-up to the McCauley *et al.* (2017) study (as recommended by McCauley *et al.*), in order to assess the potential for impacts on ocean ecosystem dynamics and zooplankton

population dynamics (Richardson *et al.,* 2017). Richardson *et al.* (2017) found that for copepods with a short life cycle in a high-energy environment, a full-scale airgun survey would impact copepod abundance up to three days following the end of the survey, suggesting that effects such as those found by McCauley *et al.* (2017) would not be expected to be detectable downstream of the survey areas, either spatially or temporally.

Notably, a recently described study produced results inconsistent with those of McCauley *et al.* (2017). Researchers conducted a field and laboratory study to assess if exposure to airgun noise affects mortality, predator escape response, or gene expression of the copepod *Calanus finmarchicus* (Fields *et al.,* 2019). Immediate mortality of copepods was significantly higher, relative to controls, at distances of 5 m or less from the airguns. Mortality one week after the airgun blast was significantly higher in the copepods placed 10 m from the airgun but was not significantly different from the controls at a distance of 20 m from the airgun. The increase in mortality, relative to controls, did not exceed 30 percent at any distance from the airgun. Moreover, the authors caution that even this higher mortality in the immediate vicinity of the airguns may be more pronounced than what would be observed in free-swimming animals due to increased flow speed of fluid inside bags containing the experimental animals. There were no sublethal effects on the escape performance or the sensory threshold needed to initiate an escape response at any of the distances from the airgun that were tested. Whereas McCauley *et al.* (2017) reported an SEL of 156 dB at a range of 509–658 m, with zooplankton mortality observed at that range, Fields *et al.* (2019) reported an SEL of 186 dB at a range of 25 m, with no reported mortality at that distance. Regardless, if we assume a worst-case likelihood of severe impacts to zooplankton within approximately 1 km of the acoustic source, the brief time to regeneration of the potentially affected zooplankton populations does not lead us to expect any meaningful follow-on effects to the prey base for marine mammals.

A recent review article concluded that, while laboratory results provide scientific evidence for high-intensity and low-frequency sound-induced physical trauma and other negative effects on some fish and invertebrates, the sound exposure scenarios in some cases are not realistic to those encountered by marine organisms during routine seismic operations (Carroll *et al.,* 2017). The review finds that there has been no evidence of reduced catch or abundance following seismic activities for invertebrates, and that there is conflicting evidence for fish with catch observed to increase, decrease, or remain the same. Further, where there is evidence for decreased catch rates in response to airgun noise, these findings provide no information about the underlying biological cause of catch rate reduction (Carroll *et al.,* 2017).

In summary, impacts of the specified activity on marine mammal prey species will likely be limited to behavioral responses, the majority of prey species will be capable of moving out of the area during the survey, a rapid return to normal recruitment, distribution, and behavior for prey species is anticipated, and, overall, impacts to prey species will be minor and temporary. Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. Mortality from decompression injuries is possible in close proximity to a sound, but only limited data on mortality in response to airgun noise exposure are available (Hawkins *et al.,* 2014). The most likely impacts for most prey species in the survey area would be temporary avoidance of the area. The proposed survey would move through an area relatively quickly, limiting exposure to multiple impulsive sounds. In all cases, sound levels would return to ambient once the survey moves out of the area or ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly (McCauley *et al.,* 2000b). The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. While the potential for disruption of spawning aggregations or schools of important prey species can be meaningful on a local scale, the mobile and temporary nature of this survey and the likelihood of temporary avoidance behavior suggest that impacts would be minor.

Acoustic Habitat—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.,* produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under *Acoustic Effects*), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, *e.g.,* Barber *et al.,* 2010; Pijanowski *et al.,* 2011; Francis and Barber, 2013; Lillis *et al.,* 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as this one cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

In summary, activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat or populations of fish species or on the quality of acoustic habitat. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, as use of the acoustic sources (*i.e.,* seismic airgun) has the potential to result in disruption of behavioral patterns for individual marine mammals. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* marine mammal exclusion zones) discussed in detail below in Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized. As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Scripps' proposed activity includes the use of impulsive seismic sources, and therefore the 160 dB re 1 μPa (rms) is applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Scripps' proposed activity includes the use of impulsive seismic sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT (PTS)

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$*:* 219 dB; $L_{E,LF,24h}$*:* 183 dB	*Cell 2:* $L_{E,LF,24h}$*:* 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$*:* 230 dB; $L_{E,MF,24h}$*:* 185 dB	*Cell 4:* $L_{E,MF,24h}$*:* 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$*:* 202 dB; $L_{E,HF,24h}$*:* 155 dB	*Cell 6:* $L_{E,HF,24h}$*:* 173 dB.
Phocid Pinnipeds (PW)(Underwater)	*Cell 7:* $L_{pk,flat}$*:* 218 dB; $L_{E,PW,24h}$*:* 185 dB	*Cell 8:* $L_{E,PW,24h}$*:* 201 dB.
Otariid Pinnipeds (OW)(Underwater)	*Cell 9:* $L_{pk,flat}$*:* 232 dB; $L_{E,OW,24h}$*:* 203 dB	*Cell 10:* $L_{E,OW,24h}$*:* 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The proposed survey would entail the use of a 2-airgun array with a total discharge of 90 in^3 at a tow depth of 2–4 m. Lamont-Doherty Earth Observatory (L–DEO) model results are used to determine the 160 dB_{rms} radius for the 2-airgun array in deep water (>1,000 m) down to a maximum water depth of 2,000 m. Received sound levels were predicted by L–DEO's model (Diebold *et al.,* 2010) as a function of distance from the airguns, for the two 45 in^3 airguns. This modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogenous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from a 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1,100 m), and shallow water (~50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010).

For deep and intermediate water cases, the field measurements cannot be used readily to derive the Level A and Level B harassment isopleths, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–550 m, which may not intersect all the SPL isopleths at their widest point from the sea surface down to the maximum relevant water depth (~2,000 m) for marine mammals. At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data at the deep sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant.

In deep and intermediate water depths, comparisons at short ranges between sound levels for direct arrivals recorded by the calibration hydrophone and model results for the same array tow depth are in good agreement (see Figures 12 and 14 in Appendix H of NSF–USGS 2011). Consequently, isopleths falling within this domain can be predicted reliably by the L–DEO model, although they may be imperfectly sampled by measurements recorded at a single depth. At greater distances, the calibration data show that seafloor-reflected and sub-seafloor-refracted arrivals dominate, whereas the direct arrivals become weak and/or incoherent. Aside from local topography effects, the region around the critical distance is where the observed levels rise closest to the model curve. However, the observed sound levels are found to fall almost entirely below the model curve. Thus, analysis of the Gulf of Mexico calibration measurements demonstrates that although simple, the L–DEO model is a robust tool for conservatively estimating isopleths.

The proposed surveys would acquire data with two 45-in^3 guns at a tow depth of 2–4 m. For deep water (>1,000 m), we use the deep-water radii obtained from L–DEO model results down to a maximum water depth of 2,000 m for the airgun array with 2-m airgun separation. The radii for intermediate water depths (100–1,000 m) are derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (see Figure 16 in Appendix H of NSF–USGS 2011). No survey effort is planned to occur in shallow water (<100 m).

L–DEO's modeling methodology is described in greater detail in SIO's IHA application. The estimated distances to the Level B harassment isopleths for the proposed airgun configuration in each water depth category are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM R/V JUSTO SIERRA SEISMIC SOURCE TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Airgun configuration	Water depth (m)	Predicted distances (m) to 160 dB rms SPL received sound level
Two 45 in^3 guns, 2-m separation, 4-m tow depth	>1,000	[a] 539
	100–1,000	[b] 809

[a] Distance based on L–DEO model results.
[b] Distance based on L–DEO model results with a 1.5 × correction factor between deep and intermediate water depths.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L–DEO using the NUCLEUS software program and the NMFS User Spreadsheet. The updated acoustic thresholds for onset of hearing impacts from impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016a). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The SEL_{cum} for the 2-GI airgun array is derived from calculating the modified farfield signature. The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, it has been recognized that the source level from the theoretical farfield

signature is never physically achieved at the source when the source is an array of multiple airguns separated in space (Tolstoy *et al.,* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.,* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the interactions of the two airguns that occur near the source center and is calculated as a point source (single airgun), the modified farfield signature is a more appropriate measure of the sound source level for large arrays. For this smaller array, the modified farfield changes will be correspondingly smaller as well, but we use this method for consistency across all array sizes.

Scripps used the same acoustic modeling as for Level B harassment with a small grid step in both the inline and depth directions to estimate the SEL_{cum} and peak SPL. The propagation modeling takes into account all airgun interactions at short distances from the source including interactions between subarrays using the NUCLEUS software to estimate the notional signature and the MATLAB software to calculate the pressure signal at each mesh point of a grid. For a more complete explanation of this modeling approach, please see ''Appendix A: Determination of Mitigation Zones'' in Scripps' IHA application.

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation and source velocities and shot intervals provided in Scripps' IHA application, potential radial distances to auditory injury zones were calculated for PTS thresholds. Calculated Level A harassment zones for all cetacean hearing groups are presented in Table 5 below (no pinnipeds are expected to occur in the survey area).

TABLE 5—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Functional hearing group	Level A harassment zone (m)
Low-frequency cetaceans [1] ..	9.9
Mid-frequency cetaceans	1.0
High-frequency cetaceans	34.6

[1] Low-frequency cetaceans are not expected to be encountered or taken by Level A or Level B harassment during the proposed survey.

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimate of the potential for take by Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the proposed seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Auditory injury is unlikely to occur for any functional hearing group given the very small modeled zones of injury (all estimated zones less than 35 meters (m)), and we therefore expect the potential for Level A harassment to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors (*e.g.,* Nachtigall *et al.,* 2018) are considered. Additionally, the method of estimating take as described below (see *Take Calculation and Estimation*) yielded only two species/guilds with calculated takes by Level A harassment, and the highest calculated take of those two groups was only two takes by Level A harassment (Table 9). We do not believe that Level A harassment is a likely outcome for any hearing group and are not proposing to authorize Level A harassment for any species.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

For the proposed survey area in the southeast Gulf of Mexico, Scripps determined that the best source of density data for marine mammal species that might be encountered in the project area was habitat-based density modeling conducted by Roberts *et al.* (2016). The Roberts *et al.* (2016) data provide abundance estimates for species or species guilds within 10 km × 10 km grid cells (100 square kilometer (km^2)) within the U.S. EEZ in the Gulf of Mexico and Atlantic Ocean on a monthly or annual basis, depending on the species and location. In the Gulf of Mexico, marine mammals do not migrate seasonally, so a single estimate for each grid cell is provided and represents the predicted abundance of that species in that 100 km^2 location at any time of year.

As the planned survey lines are outside of the U.S. EEZ, they do not directly overlap the available spatial density data. However, some of the survey lines occur near the U.S. EEZ, and the distribution and abundance of species in U.S. EEZ waters are assumed representative of those in the nearby survey area. To select a representative sample of grid cells for the calculation of densities in three different water depth categories (>100 m, 100–1,000 m, and >1,000 m), a 200-km perimeter around the survey lines was created in GIS. The areas within this perimeter within the three depth categories was then used to select grid cells containing the estimates for each species in the Roberts *et al.* (2016) data (*i.e.,* <100 m, $n = 157$ grid cells; 100–1,000, $n = 169$ grid cells; >1,000 m, $n = 410$ grid cells). The average abundance for each species in each water depth category was calculated as the mean value of the grid cells within each category and then converted to density (individuals/1 km^2) by dividing by 100 km^2. Estimated densities for marine mammal species that could occur in the project area are shown in Table 6.

TABLE 6—MARINE MAMMAL DENSITIES IN THE PROPOSED SURVEY AREA

Species	Estimated density (#/km²)	
	Intermediate water 100–1,000 m	Deep water >1,000 m
Sperm whale	0.00384	0.00579
Atlantic spotted dolphin	0.07022	0.00001
Beaked whale guild [a]	0.00498	0.00882
Common bottlenose dolphin	0.18043	0.00566
Clymene dolphin	0.00325	0.00403
False killer whale	0.00744	0.00748
Frasers dolphin	0.00386	0.00389
Killer whale	0.00007	0.00082
Melon-headed whale	0.00624	0.01186
Pantropical spotted dolphin	0.14764	0.31353
Short-finned pilot whales	0.00636	0.00128
Pygmy killer whale	0.00201	0.00648
Risso's dolphin	0.02315	0.00748
Rough-toothed dolphin	0.00890	0.00768
Spinner dolphin	0.15723	0.00412
Striped dolphin	0.00212	0.01268
Kogia spp. [b]	0.01052	0.00490

[a] Includes Cuvier's beaked whale, Blainville's beaked whale, and Gervais' beaked whale.
[b] Pygmy sperm whales and dwarf sperm whales.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

The area expected to be ensonified was determined by entering the planned survey lines into ArcGIS and then using GIS to identify the relevant ensonified areas by ''drawing'' the 160-dB threshold buffer around each seismic line according to the depth category in which the lines occurred. The total ensonified area within each depth category was then divided by the total number of survey days to provide the proportional daily ensonified area within each depth category. The total ensonified area in each depth class was multiplied by 1.25 to add an additional 25 percent contingency to allow for additional airgun operations such as testing of the source or re-surveying lines with poor data quality. Due to uncertainties with respect to permitting for surveys in Cuban waters, ensonified areas were calculated separately for transect lines in Mexican and Cuban EEZs, for which 4.2 and 5.5 survey days were estimated, respectively (Table 7). If Scripps is unable to operate within the Cuban EEZ, they will conduct the entire survey within the Mexican EEZ, with the same estimated daily proportions of survey activity in each depth strata occurring over a total of 9.7 survey days. This scenario yields a total ensonified area of 3,595.6 km², with 1,848.6 km² in intermediate waters (100–1,000 m) and 1,747.0 km² in deep waters (>1,000 m).

TABLE 7—AREAS (km²) IN MEXICAN AND CUBAN EEZS TO BE ENSONIFIED ABOVE LEVEL B HARASSMENT THRESHOLD

Water depth category	Relevant isopleth (m)	Ensonified area in Mexican EEZ (km²)	Ensonified area in Cuban EEZ (km²)	Total ensonified area (km²)	Total area with 25% increase (km²)
Intermediate (100–1,000 m)	809	640.35	0	640.35	800.44
Deep (>1,000)	539	605.14	1,298.09	1,903.23	2,379.04
Total	.....	1,245.49	1,298.09	2,543.58	3,179.48

To estimate the total number of possible exposures, the total ensonified area within each depth category is multiplied by the densities in each depth category. Scripps does not expect to know whether surveying within Cuban waters will be permitted until immediately before the research cruise, therefore NMFS is proposing to authorize the highest calculated take number for each species across the two survey scenarios (Table 8).

TABLE 8—CALCULATED AND PROPOSED TAKES BY LEVEL B HARASSMENT, AND PERCENTAGE OF POPULATION EXPOSED

Species	Mexico and Cuba lines calculated Level B	Mexico and Cuba lines calculated Level A	Mexico only calculated Level B	Mexico only calculated Level A	Proposed Level B	Proposed Level A	Population size [a]	Percent of population
Sperm whale	17	0	17	0	17	0	2,207	0.78
Atlantic spotted dolphin	56	0	130	0	130	0	74,785	0.17
Beaked whale guild [c]	25	0	25	0	25	0	3,768	0.66
Common bottlenose dolphin	158	0	343	0	343	0	176,108	0.20
Clymene dolphin	[b] 90	0	[b] 90	0	[b] 90	0	11,895	0.76
False killer whale	[b] 28	0	[b] 28	0	[b] 28	0	3,204	0.87
Frasers dolphin	[b] 65	0	[b] 65	0	[b] 65	0	1,665	3.90

TABLE 8—CALCULATED AND PROPOSED TAKES BY LEVEL B HARASSMENT, AND PERCENTAGE OF POPULATION EXPOSED—Continued

Species	Mexico and Cuba lines calculated Level B	Mexico and Cuba lines calculated Level A	Mexico only calculated Level B	Mexico only calculated Level A	Proposed Level B	Proposed Level A	Population size [a]	Percent of population
Killer whale	[b] 7	0	[b] 7	0	[b] 7	0	267	2.62
Melon-headed whale	[b] 100	0	[b] 100	0	[b] 100	0	7,003	1.43
Pantropical spotted dolphin	862	2	820	1	864	0	102,361	0.84
Pygmy killer whale	[b] 19	0	[b] 19	0	[b] 19	0	2,126	0.89
Risso's dolphin	36	0	56	0	56	0	3,764	1.48
Rough-toothed dolphin	[b] 56	0	[b] 56	0	[b] 56	0	4,853	1.15
Short-finned pilot whales	[b] 25	0	[b] 25	0	[b] 25	0	1,981	1.26
Spinner dolphin	136	0	298	0	298	0	25,114	1.19
Striped dolphin	[b] 46	0	[b] 46	0	[b] 46	0	5,229	0.88
Kogia spp.	19	1	27	1	28	0	4,373	0.64

[a] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts et al., 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.
[b] Calculated and proposed take increased to mean group size as presented by Maze-Foley and Mullin (2006).
[c] Cuvier's, Blainville's, and Gervais' beaked whales.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Scripps indicated that it reviewed mitigation measures employed during seismic research surveys authorized by NMFS under previous incidental harassment authorizations, as well as recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), Weir and Dolman (2007), Nowacek *et al.* (2013), Wright (2014), and Wright and Cosentino (2015), and has incorporated a suite of proposed mitigation measures into their project description based on the above sources.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, Scripps has proposed to implement mitigation measures for marine mammals. Mitigation measures that would be adopted during the proposed surveys include: (1) Vessel-based visual mitigation monitoring; (2) Establishment of a marine mammal exclusion zone (EZ) and buffer zone; (3) shutdown procedures; (4) ramp-up procedures; and (4) vessel strike avoidance measures.

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual Protected Species Observers (PSOs)) to scan the ocean surface visually for the presence of marine mammals. PSO observations would take place during all daytime airgun operations and nighttime start ups (if applicable) of the airguns. If airguns are operating throughout the night, observations would begin 30 minutes prior to sunrise. If airguns are operating after sunset, observations would continue until 30 minutes following sunset. Following a shutdown for any reason, observations would occur for at least 30 minutes prior to the planned start of airgun operations. Observations would also occur for 30 minutes after airgun operations cease for any reason. Observations would also be made during daytime periods when the R/V *Justo Sierra* is underway without seismic operations, such as during transits, to allow for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Airgun operations would be suspended when marine mammals are observed within, or about to enter, the designated exclusion zone (EZ) (as described below).

During seismic operations, two visual PSOs would be on duty and conduct visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). PSO(s) would be on duty in shifts of duration no longer than 4 hours. Other vessel crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew would be given additional instruction in detecting marine mammals and implementing mitigation requirements.

The R/V *Justo Sierra* is a suitable platform from which PSOs would watch for marine mammals. Standard equipment for marine mammal observers would be 7 x 50 reticule binoculars and optical range finders. At night, night-vision equipment would be available. The observers would be in communication with ship's officers on

the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for vessel strike avoidance measures (see *Vessel Strike Avoidance Measures* below) or seismic source shutdown.

The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval. At least one PSO must have a minimum of 90 days prior at-sea experience working as a PSO during a seismic survey. One ''experienced'' visual PSO will be designated as the lead for the entire protected species observation team. The lead will serve as primary point of contact for the vessel operator.

Exclusion Zone (EZ) and Buffer Zone

An EZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 100 m radius for the airgun array. The 100-m EZ would be based on radial distance from any element of the airgun array (rather than being based around the vessel itself). With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone, the acoustic source would be shut down (see *Shutdown Procedures* below).

The 100-m radial distance of the standard EZ is precautionary in the sense that it would be expected to contain sound exceeding injury criteria for all marine mammal hearing groups (Table 5) while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. In the 2011 Programmatic Environmental Impact Statement for marine scientific research funded by the National Science Foundation or the U.S. Geological Survey (NSF–USGS 2011), Alternative B (the Preferred Alternative) conservatively applied a 100-m EZ for all low-energy acoustic sources in water depths >100 m, with low-energy acoustic sources defined as any towed acoustic source with a single or a pair of clustered airguns with individual volumes of ≤250 in^3. Thus the 100-m EZ proposed for this survey is consistent with the PEIS.

Our intent in prescribing a standard EZ distance is to (1) encompass zones within which auditory injury could occur on the basis of instantaneous exposure; (2) provide additional protection from the potential for more severe behavioral reactions (*e.g.,* panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) provide consistency for PSOs, who need to monitor and implement the EZ; and (4) define a distance within which detection probabilities are reasonably high for most species under typical conditions.

PSOs will also establish and monitor a 100-m buffer zone beyond the EZ (for a total of 200 m). During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the EZ) will be communicated to the operator to prepare for potential shutdown of the acoustic source. The buffer zone is discussed further under *Ramp-Up Procedures* below.

An extended EZ of 500 m is proposed for all beaked whales and *Kogia* species as well as for aggregations of six or more large whales (*i.e.,* sperm whale) or a large whale with a calf (calf defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult).

Ramp-Up Procedures

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels following a shutdown, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. Ramp-up would be required after the array is shut down for any reason for longer than 15 minutes. Ramp-up would begin with the activation of one 45 in^3 airgun, with the second 45 in^3 airgun activated after 5 minutes.

Two PSOs would be required to monitor during ramp-up. During ramp up, the PSOs would monitor the EZ, and if marine mammals were observed within the EZ or buffer zone, a shutdown would be implemented as though the full array were operational. If airguns have been shut down due to PSO detection of a marine mammal within or approaching the EZ, ramp-up would not be initiated until all marine mammals have cleared the EZ, during the day or night. Criteria for clearing the EZ would be as described above.

Thirty minutes of pre-start clearance observation are required prior to ramp-up for any shutdown of longer than 30 minutes (*i.e.,* when the array is shut down during transit from one line to another). This 30-minute pre-start clearance period may occur during any vessel activity (*i.e.,* transit). If a marine mammal were observed within or approaching the 200-m buffer or 500-m extended EZ during this pre-start clearance period, ramp-up would not be initiated until all marine mammals cleared the relevant area. Criteria for clearing the EZ would be as described above. If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of any marine mammal have occurred within the EZ or buffer zone. Ramp-up would be planned to occur during periods of good visibility when possible. However, ramp-up would be allowed at night and during poor visibility if the 100 m EZ and 200 m buffer zone have been monitored by visual PSOs for 30 minutes prior to ramp-up.

The operator would be required to notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. The operator must provide information to PSOs documenting that appropriate procedures were followed. Following deactivation of the array for reasons other than mitigation, the operator would be required to communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up.

Shutdown Procedures

If a marine mammal is detected outside the EZ but is likely to enter the EZ, the airguns would be shut down before the animal is within the EZ. Likewise, if a marine mammal is already within the EZ when first detected, the airguns would be shut down immediately.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the EZ. The animal would be considered to have cleared the EZ if the following conditions have been met:

- It is visually observed to have departed the EZ;
- it has not been seen within the EZ for 15 min in the case of small odontocetes; or
- it has not been seen within the EZ for 30 min in the case of large odontocetes, including sperm and beaked whales.

This shutdown requirement would be in place for all marine mammals, with the exception of small delphinids under certain circumstances. As defined here, the small delphinid group is intended to

encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement would apply solely to specific genera of small dolphins—*Lagenodelphis, Stenella, Steno,* and *Tursiops.*

We include this small delphinid exception because shutdown requirements for small delphinids under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small delphinids are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift).

A large body of anecdotal evidence indicates that small delphinids commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinids (*e.g.,* Barkaszi *et al.,* 2012, 2018). The potential for increased shutdowns resulting from such a measure would require the R/V *Justo Sierra* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.,* large delphinids) are no more likely to incur auditory injury than are small delphinids, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger EZ).

Shutdown of the acoustic source would also be required upon observation of a species for which authorization has not been granted (*e.g.,* baleen whales), or a species for which authorization has been granted but the authorized number of takes are met, observed approaching or within the Level B harassment zones.

Vessel Strike Avoidance Measures

Vessel strike avoidance measures are intended to minimize the potential for collisions with marine mammals. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

The proposed measures include the following: Vessel operator and crew would maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course to avoid striking any marine mammal. A visual observer aboard the vessel would monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone would be either third-party observers or crew members, but crew members responsible for these duties would be provided sufficient training to distinguish marine mammals from other phenomena. Vessel strike avoidance measures would be followed during surveys and while in transit.

The vessel would maintain a minimum separation distance of 100 m from large whales (*i.e.,* baleen whales and sperm whales). If a large whale is within 100 m of the vessel, the vessel would reduce speed and shift the engine to neutral, and would not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established. If the vessel is stationary, the vessel would not engage engines until the whale(s) has moved out of the vessel's path and beyond 100 m. The vessel would maintain a minimum separation distance of 50 m from all other marine mammals, to the extent practicable. If an animal is encountered during transit, the vessel would attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course. Vessel speeds would be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species,

acoustic habitat, or other important physical components of marine mammal habitat).

- Mitigation and monitoring effectiveness.

Scripps submitted a marine mammal monitoring and reporting plan in their IHA application. Monitoring that is designed specifically to facilitate mitigation measures, such as monitoring of the EZ to inform potential shutdowns of the airgun array, are described above and are not repeated here. Scripps' monitoring and reporting plan includes the following measures:

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations and nighttime start-ups (if applicable) of the airguns. During seismic operations, visual PSOs would be based aboard the R/V *Justo Sierra.* PSOs would be appointed by Scripps with NMFS approval. The PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program, and must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate training, including (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

During seismic operations in daylight hours (30 minutes before sunrise through 30 minutes after sunset), two PSOs would monitor for marine mammals around the seismic vessel. PSOs would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). During daytime, PSOs would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7x50 Fujinon) and with the naked eye. At night, PSOs would be equipped with night-vision equipment.

For data collection purposes, PSOs shall use standardized data collection forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel names (source vessel and other vessels associated with survey) and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Date and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

The following information should be recorded upon visual observation of any protected species:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach (CPA) and/or closest distance from any element of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up) and time and location of the action.

Reporting

A report would be submitted to NMFS within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities).

The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic

coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as described above and in the IHA. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in survey activities covered by the authorization discover an injured or dead marine mammal, Scripps shall report the incident to the Office of Protected Resources (OPR), NMFS and to the NMFS Southeast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Vessel strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, Scripps shall report the incident to OPR, NMFS and to the NMFS Southeast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the animal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all species listed in Table 1, given that NMFS expects the anticipated effects of the planned geophysical survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that injury, serious injury or mortality would occur as a result of Scripps' planned survey, even in the absence of mitigation, and none would be authorized. Similarly, non-auditory physical effects, stranding, and vessel strike are not expected to occur. Although a few incidents of Level A harassment were predicted through the quantitative exposure estimation process (see Estimated Take), NMFS has determined that this is not a realistic result due to the small estimated Level A harassment zones for the species (no greater than approximately 50 m) and the proposed mitigation requirements, and no Level A harassment is proposed for authorization. These estimated zones are larger than what would realistically occur, as discussed in the Estimated Take section.

We expect that takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007, Ellison *et al.,* 2012).

Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the relatively short duration (up to 12 days) and temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. No biologically important areas, designated critical habitat, or other habitat of known significance would be impacted by the planned activities.

Negligible Impact Conclusions

The proposed survey would be of short duration (up to 12 days of seismic operations), and the acoustic ''footprint'' of the proposed survey would be small relative to the ranges of the marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area. Short-term exposures to survey operations are expected to only

temporarily affect marine mammal behavior in the form of avoidance, and the potential for longer-term avoidance of important areas is limited. Short-term exposures to survey operations are not likely to impact marine mammal behavior, and the potential for longer-term avoidance of important areas is limited.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual observers, and by minimizing the severity of any potential exposures via shutdowns of the airgun array.

NMFS concludes that exposures to marine mammal species and stocks due to Scripps' proposed survey would result in only short-term (temporary and short in duration) effects to individuals exposed, over relatively small areas of the affected animals' ranges. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No Level A harassment, serious injury or mortality is anticipated or proposed to be authorized;
- The proposed activity is temporary and of relatively short duration (up to 12 days);
- The anticipated impacts of the proposed activity on marine mammals would primarily be temporary behavioral changes in the form of avoidance of the area around the survey vessel;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited, and impacts to marine mammal foraging would be minimal; and
- The proposed mitigation measures, including visual monitoring, shutdowns, ramp-up, and prescribed measures based on energy size are expected to minimize potential impacts to marine mammals (both amount and severity).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated population abundance of all species (Roberts *et al.,* 2016). In fact, take of individuals is less than 4 percent of the abundance of the affected populations (see Table 8).

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of sperm whales, which are listed under the ESA. The NMFS Office of Protected Resources' (OPR) Permits and Conservation Division has requested initiation of Section 7 consultation with the OPR Endangered Species Act Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Scripps for conducting geophysical surveys in the southeast Gulf of Mexico in summer 2022, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed geophysical survey. We also request at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

• A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).

• The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: December 13, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

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BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2021–0016]

New Implementation Date for Voluntary Continuing Legal Education Certification

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of delay in implementation date.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is delaying indefinitely the implementation of the voluntary continuing legal education (CLE) certification. The USPTO anticipates providing at least 120 days' notice prior to any implementation of the voluntary CLE certification.

DATES: *Delay of Implementation Date:* The USPTO is delaying implementation of the voluntary certification of CLE indefinitely.

FOR FURTHER INFORMATION CONTACT: Will Covey, Deputy General Counsel and Director of the Office of Enrollment and Discipline (OED), at 571–272–4097. Please direct media inquiries to the USPTO's Office of the Chief Communications Officer at 571–272–8400.

SUPPLEMENTARY INFORMATION: On August 3, 2020, the USPTO issued a final rule, Setting and Adjusting Patent Fees During Fiscal Year 2020, 85 FR 46932 (Aug. 3, 2020). Under this rule registered patent practitioners and individuals granted limited recognition to practice before the USPTO in patent matters would be permitted to voluntarily certify to the OED Director their completion of 6 credits of CLE in the preceding 24 months (including 5 hours of CLE in patent law and practice and 1 hour of CLE in ethics). 37 CFR 11.11(a)(3)(i). The 2020 final fee rule also provided that the OED Director may recognize practitioners who certify their completion of CLE in the online register of practitioners. 37 CFR 11.11(a)(1).

On October 9, 2020, the USPTO published proposed CLE guidelines with a request for comments in the **Federal Register**, seeking public input on those guidelines. 85 FR 64128. The request for comments closed on January 7, 2021. The USPTO received 26 comments addressing both the proposed CLE guidelines and the provisions of the final patent fee rule that establish the biennial electronic registration statement.

On June 10, 2021, the USPTO issued a **Federal Register** Notice announcing that the voluntary CLE certification would commence in the spring of 2022 but that implementation of the biennial electronic registration statement would be delayed until November 1, 2024. 86 FR 30920.

At this time, based on operational priorities, implementation of the voluntary CLE certification will be delayed indefinitely. The expected implementation date for the biennial electronic registration statement remains November 1, 2024.

The USPTO will provide at least 120 days' notice prior to the implementation of the voluntary CLE certification. In addition, the USPTO will issue final CLE guidelines and specific instructions for making the certification prior to any implementation date.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2021–27221 Filed 12–15–21; 8:45 am]

BILLING CODE 3510–16–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2021–0021]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''Electronic Fund Transfer Act (Regulation E).''

DATES: Written comments are encouraged and must be received on or before February 14, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2021–0021 in the subject line of the email.

• *Mail/Hand Delivery/Courier:* Comment intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier. Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is

available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Electronic Fund Transfer Act (Regulation E) 12 CFR 1005.

OMB Control Number: 3170–0014.

Type of Review: Extension of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

Estimated Number of Respondents: 600,000.

Estimated Total Annual Burden Hours: 3,353,592.

Abstract: The Electronic Fund Transfer Act (EFTA), 15 U.S.C. 1693 *et seq.,* requires accurate disclosure of the costs, terms, and rights relating to electronic fund transfer (EFT) services and remittance transfer services to consumers. Entities offering EFT services must provide consumers with full and accurate information regarding consumers' rights and responsibilities in connection with EFT services. These disclosures are intended to protect the rights of consumers using EFT services, such as automated teller machine (ATM) transfers, telephone bill-payment services, point-of-sale transfers at retail establishments, electronic check conversion, payroll cards, and preauthorized transfers from or to a consumer's account. EFTA also establishes error resolution procedures and limits consumer liability for unauthorized transfers in connection with EFT services. EFTA and Regulation E impose disclosure and other requirements on issuers and sellers of gift cards, gift certificates, and general-use prepaid cards. Further, EFTA and Regulation E provide protections for consumers in the United States who send remittance transfers to persons in a foreign country. It also provides comprehensive protections for consumers who use ''prepaid accounts.'' Tailored provisions governing disclosures, limited liability, error resolution, and periodic statements added new requirements regarding the posting of account agreements. Additionally, Regulations E regulates overdraft credit features offered in connection with prepaid accounts.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2021–27225 Filed 12–15–21; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Fiscal Year 2021 Performance Review Board Membership

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces the appointment of members to the DoN Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) Fiscal Year 2021 Performance Review Board (PRB). The purpose of the PRB is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for performance-based bonuses and performance-based pay increases.

FOR FURTHER INFORMATION CONTACT: Danielle Dutton, Executive Management Program Office, Office of Civilian Human Resources at 703–697–0640 or *danielle.dutton@navy.mil.*

SUPPLEMENTARY INFORMATION: Composition of the specific PRB is provided below:

Ms. Mary K Tompa
Mr. Frederick Stefany
Mr. Andrew Haeuptle
Mr. Scott Bray
Ms. Anne Sandel
Ms. Leslie Taylor
Ms. Giao Phan
Mr. Kurt Wendelken
Ms. Deline Reardon
Ms. Catherine Kessmeier
Dr. Michael Strobl (HLR)
Mr. Robert Hogue (Chair)

(Authority: 5 U.S.C. 4314(c)(4))

Dated: December 9, 2021.

J.M. Pike,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2021–27214 Filed 12–15–21; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Resource Centers Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2022 for the National Resource Centers (NRC) Program, Assistance Listing Number 84.015A. This notice relates to the approved information collection under OMB control number 1840–0807.

DATES:

Applications Available: December 16, 2021.

Deadline for Transmittal of Applications: February 14, 2022.

Deadline for Intergovernmental Review: April 15, 2022.

Pre-Application Webinar Information: The Department held a pre-application meeting via webinar for prospective applicants on November 10, 2021. The link for the webinar is located on the International and Foreign Language Education website at *https://www2.ed.gov/programs/iegpsnrc/applicant.html.* Additionally, for new potential grantees unfamiliar with grantmaking at the Department, please consult our funding basics resources at *www2.ed.gov/documents/funding-101/funding-101-basics.pdf.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Timothy Duvall, U.S. Department of Education, International and Foreign Language Education, 400 Maryland

Avenue SW, Mailstop 258–40, Washington, DC 20202. Telephone: (202) 453–7521. Email: *NRC-FLAS@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The NRC Program provides grants to institutions of higher education (IHEs) or consortia of IHEs to establish, strengthen, and operate comprehensive and undergraduate centers that will be national resources for: (a) Teaching of modern foreign languages; (b) instruction in fields needed to provide a full understanding of world regions where the modern foreign languages are used; (c) research and training in international studies and international and foreign language aspects of professional and other fields of study; and (d) instruction and research on issues in world affairs.

Priorities: This notice contains two absolute priorities and one competitive preference priority for the NRC Program. Absolute Priority 1 is from section 602(e) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1122(e)). Absolute Priority 2 is from the program regulations (34 CFR 656.23). The competitive preference priority is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Absolute Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet these priorities.

These priorities are:

Absolute Priority 1.

Applications that (1) explain how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs; and (2) describe how the applicant will encourage government service in areas of national need, as identified by the Secretary, as well as in areas of need in the education, business, and non-profit sectors.

Absolute Priority 2.

Applications that propose teacher training activities on the language, languages, area studies, or thematic focus of the Center.

Competitive Preference Priority: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application, depending on how well the application meets the priority.

This priority is:

Partnership with Minority-Serving Institutions (MSIs) or Community Colleges (up to 5 additional points).

Under this priority, an applicant must demonstrate that the project will be implemented by or in partnership with one or more of the following entities:

(1) Community colleges (as defined in this notice).

(2) Historically Black colleges and universities (as defined in this notice).

(3) Tribal Colleges and Universities (as defined in this notice).

(4) Minority-serving institutions (as defined in this notice).

Definitions: The definitions below are from the Supplemental Priorities.

Community college means ''junior or community college'' as defined in section 312(f) of the Higher Education Act of 1965, as amended (HEA).

Historically Black Colleges and Universities means colleges and universities that meet the criteria set out in 34 CFR 608.2.

Minority-Serving Institution (MSI) means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Tribal College or University has the meaning ascribed it in section 316(b)(3) of the HEA.

Note: The institutions designated eligible under title III and title V may be viewed at the following link: *www2.ed.gov/about/offices/list/ope/idues/eligibility.html.*

Program Authority: Title VI, part A, HEA (20 U.S.C. 1122).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR parts 655 and 656. (e) The Supplemental Priorities.

Areas of National Need: In accordance with section 601(c) of the HEA (20 U.S.C. 1121(c)), the Secretary consulted with a wide range of Federal agencies and received recommendations regarding national need for expertise in foreign language and world regions. These agencies' recommendations may be viewed on this web page: *https://www2.ed.gov/about/offices/list/ope/iegps/languageneeds.html.*

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $23,709,231.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FYs 2023, 2024, and 2025 from the list of unfunded applications from this competition.

Estimated Range of Awards: $188,000–$270,000 per year.

Estimated Average Size of Awards: $215,000 per year.

Estimated Number of Awards: 100.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs (as defined in section 101 of the HEA (20 U.S.C. 1001)) or consortia of IHEs.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* The NRC Program has supplement-not-supplant funding requirements. Under 34 CFR 656.33(b)(3), grant funds may not be used to supplant funds normally used by applicants for purposes of this program.

c. *Indirect Cost Rate Information:* This program uses a restricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform

to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs, nonprofit organizations, professional organizations, or businesses. The grantee may award subgrants to entities it has identified in the approved application or that it selects through a competition under procedures established by the grantee.

4. *Other:* (a) *Reasonable and Necessary Costs:* Applicants must ensure that all costs included in the proposed budget are necessary and reasonable to meet the goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

(b) *Audits:* (i) A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR part 200. (2 CFR 200.501(a))

(ii) A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to Other Audit Requirements), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO) (2 CFR 200.501(d)).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR–2019–02–13/pdf/2019–02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 656.30(b). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the priorities, selection criteria, and application requirements that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages for single institution applications, and to no more than 60 pages for consortia applications and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single spaced and will count toward the recommended page limit.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, and graphs. Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit applies to the entirety of the application narrative. The recommended page limit does not apply to the Application for Federal Assistance face sheet (SF 424); the supplemental SF 424 form; Budget Information—Non-Construction Programs (ED 524); the detailed line item budget; the assurances and certifications, and the response to section 427 of the General Education Provisions Act; the project abstract, the table of contents, the list of acronyms, the response to the diverse perspectives/areas of need requirements, the NRC project profile form, and the appendices (curriculum vitae, course list, and, letters of support).

5. *Award Basis:* In determining whether to approve a grant award and the amount of such award, the Department will consider, among other things, the applicant's performance and use of funds under a previous or existing award under any Department program (34 CFR 75.217(d)(3)(ii) and 75.233). In assessing the applicant's performance and use of funds under a previous or existing award, the Secretary will consider, among other things, the outcomes the applicant has achieved and the results of any Departmental grant monitoring, including the applicant's progress in remedying any deficiencies identified in such monitoring.

V. Application Review Information

1. *General:* For the FY 2022 NRC competition, all applications will be assigned to peer review panels based on world region—such as Africa, Asia, or the Middle East—or international focus, as specified in the NRC application profile form. Readers who serve on the peer review panels are selected based on their expertise in the specialized area studies, international studies, and modern foreign language(s) necessary to review, score, and rank the assigned applications in each distinct category. The Department will select applications for funding based on the ranking of each application in its distinct regional or thematic focus panel.

2. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 656.21 and apply to applications for a comprehensive Center or an undergraduate Center, as indicated. The maximum possible points for the selection criteria, taken together with the maximum number of points awarded to applicants for addressing the competitive preference priorities, is 129 points.

Comprehensive Center Selection Criteria:

(a) *Commitment to the subject area on which the Center focuses* (up to 5 points). The Secretary reviews each application to determine the extent to which the institution provides financial and other support to the operation of the Center, teaching staff for the Center's subject area, library resources, linkages with institutions abroad, outreach activities, and qualified students in fields related to the Center.

(b) *Quality of the Center's language instructional program* (up to 14 points). The Secretary reviews each application to determine—

(1) The extent to which the Center provides instruction in the languages of the Center's subject area and the extent to which students enroll in the study of the languages of the subject area through programs or instruction offered by the Center or other providers;

(2) The extent to which the Center provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages;

(3) Whether sufficient numbers of language faculty are available to teach the languages and levels of instruction described in the application and the extent to which language teaching staff

(including faculty and instructional assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching; and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements.

(c) *Quality of the Center's non-language instructional program* up to 14 points). The Secretary reviews each application to determine—

(1) The quality and extent of the Center's course offerings in a variety of disciplines, including the extent to which courses in the Center's subject matter are available in the institution's professional schools;

(2) The extent to which the Center offers depth of specialized course coverage in one or more disciplines of the Center's subject area;

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the Center to carry out its purposes and the extent to which instructional assistants are provided with pedagogy training; and

(4) The extent to which interdisciplinary courses are offered for undergraduate and graduate students.

(d) *Quality of curriculum design* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which the Center's curriculum has incorporated undergraduate instruction in the applicant's area or topic of specialization into baccalaureate degree programs (for example, major, minor, or certificate programs) and the extent to which these programs and their requirements (including language requirements) are appropriate for a Center in this subject area and will result in an undergraduate training program of high quality;

(2) The extent to which the Center's curriculum provides training options for graduate students from a variety of disciplines and professional fields and the extent to which these programs and their requirements (including language requirements) are appropriate for a Center in this subject area and result in graduate training programs of high quality;

(3) The extent to which the Center provides academic and career advising services for students; and

(4) The extent to which the Center has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs.

(e) *Quality of staff resources* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed Center activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students;

(2) The adequacy of Center staffing and oversight arrangements, including outreach and administration and the extent to which faculty from a variety of departments, professional schools, and the library are involved; and

(3) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly.

(f) *Strength of library* (up to 6 points). The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) in the subject area and at the educational levels (graduate, professional, undergraduate) on which the Center focuses; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the Center; and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or online databases and the extent to which teachers, students, and faculty from other institutions are able to access the library's holdings.

(g) *Impact and evaluation* (up to 25 points). The Secretary reviews each application to determine—

(1) The extent to which the Center's activities and training programs have a significant impact on the university, community, region, and the Nation as shown through indices such as enrollments, graduate placement data, participation rates for events, and usage of Center resources;

(2) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements;

(3) The degree to which activities of the Center address national needs, and generate information for and disseminate information to the public;

(4) The extent to which the applicant provides an evaluation plan that is comprehensive and objective and that will produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program; and

(5) The extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly.

(h) *Outreach activities* (up to 9 points). The Secretary reviews each application to determine the extent to which the Center demonstrates a significant and measurable regional and national impact of, and faculty and professional school involvement in, domestic outreach activities that involve—

(1) Elementary and secondary schools;

(2) Postsecondary institutions; and

(3) Business, media, and the general public.

(i) *Program planning and budget* (up to 25 points). The Secretary reviews each application to determine—

(1) The extent to which the applicant provides a development plan or timeline demonstrating how the proposed activities will contribute to a strengthened program and whether the applicant uses its resources and personnel effectively to achieve the proposed objectives;

(2) The extent to which the activities for which the applicant seeks funding are of high quality and directly related to the purpose of the National Resource Centers Program;

(3) The extent to which the costs of the proposed activities are reasonable in relation to the objectives of the program; and

(4) The long-term impact of the proposed activities on the institution's undergraduate, graduate, and professional training programs.

Undergraduate Center Selection Criteria:

(a) *Commitment to the subject area on which the Center focuses* (up to 5 points). The Secretary reviews each application to determine the extent to which the institution provides financial and other support to the operation of the Center, teaching staff for the Center's subject area, library resources, linkages with institutions abroad, outreach

activities, and qualified students in fields related to the Center.

(b) *Quality of the Center's language instructional program* (up to 14 points). The Secretary reviews each application to determine—

(1) The extent to which the Center provides instruction in the languages of the Center's subject area and the extent to which students enroll in the study of the languages of the subject area through programs offered by the Center or other providers;

(2) The extent to which the Center provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages;

(3) Whether sufficient numbers of language faculty are available to teach the languages and levels of instruction described in the application and the extent to which language teaching staff (including faculty and instructional assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching; and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements.

(c) *Quality of the Center's non-language instructional program* (up to 14 points). The Secretary reviews each application to determine—

(1) The quality and extent of the Center's course offerings in a variety of disciplines;

(2) The extent to which the Center offers depth of specialized course coverage in one or more disciplines of the Center's subject area;

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the Center to carry out its purposes and the extent to which instructional assistants are provided with pedagogy training; and

(4) The extent to which interdisciplinary courses are offered for undergraduate students.

(d) *Quality of curriculum design* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which the Center's curriculum has incorporated undergraduate instruction in the applicant's area or topic of specialization into baccalaureate degree programs (for example, major, minor, or certificate programs) and the extent to which these programs and their requirements (including language requirements) are appropriate for a Center in this subject area and will result in an undergraduate training program of high quality;

(2) The extent to which the Center provides academic and career advising services for students; and

(3) The extent to which the Center has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs.

(e) *Quality of staff resources* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed Center activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students;

(2) The adequacy of Center staffing and oversight arrangements, including outreach and administration and the extent to which faculty from a variety of departments, professional schools, and the library are involved; and

(3) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly.

(f) *Strength of library* (up to 6 points). The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) in the subject area and at the educational levels (graduate, professional, undergraduate) on which the Center focuses; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the Center; and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or on-line databases and the extent to which teachers, students, and faculty from other institutions are able to access the library's holdings.

(g) *Impact and evaluation* (up to 25 points). The Secretary reviews each application to determine—

(1) The extent to which the Center's activities and training programs have a significant impact on the university, community, region, and the Nation as shown through indices such as enrollments, graduate placement data, participation rates for events, and usage of Center resources; the extent to which students matriculate into advanced language and area or international studies programs or related professional programs;

(2) The extent to which the applicant provides an evaluation plan that is comprehensive and objective and that will produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program;

(3) The degree to which activities of the Center address national needs, and generate information for and disseminate information to the public;

(4) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements; and

(5) The extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly.

(h) *Outreach activities* (up to 9 points). The Secretary reviews each application to determine the extent to which the Center demonstrates a significant and measurable regional and national impact of, and faculty and professional school involvement in, domestic outreach activities that involve—

(1) Elementary and secondary schools;

(2) Postsecondary institutions; and

(3) Business, media, and the general public.

(i) *Program planning and budget* (up to 25 points). The Secretary reviews each application to determine—

(1) The extent to which the applicant provides a development plan or timeline demonstrating how the proposed activities will contribute to a strengthened program and whether the applicant uses its resources and personnel effectively to achieve the proposed objectives;

(2) The extent to which the activities for which the applicant seeks funding are of high quality and directly related to the purpose of the National Resource Centers Program;

(3) The extent to which the costs of the proposed activities are reasonable in relation to the objectives of the program; and

(4) The long-term impact of the proposed activities on the institution's undergraduate training program.

3. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under these programs the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements, please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170, should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

Performance reports for the NRC Program must be submitted electronically into the International and Foreign Language Education (IFLE) web-based reporting system, International Resource Information System (IRIS). For information about IRIS and to view the reporting instructions, please go to *https://iris.ed.gov/iris/pdfs/NRC.pdf*.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. If a grantee is provided additional funding for this purpose, the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of evaluating the success of the NRC Program under the Government Performance and Results Act of 1993 and Department reporting under 34 CFR

75.110, the Department has established the following performance measures:

(a) Percentage of priority languages defined by the Secretary of Education taught at NRCs.

(b) Percentage of NRCs teaching intermediate or advanced courses in priority languages as defined by the Secretary of Education.

(c) Percentage of NRCs that increased the number of intermediate or advanced level language courses in the priority area and/or less and least commonly taught languages (LCTLs) during the course of the grant period.

(d) Percentage of NRCs that increased the number of certificate, minor, or major degree programs in the priority area and/or LCTLs, area studies, or international studies during the course of the four-year grant period.

(e) Percentage of LCTLs taught at NRCs.

(f) Cost per NRC that increased the number of intermediate or advanced level language courses in the priority area and/or LCTLs during the course of the grant period.

The information provided by grantees in their performance reports submitted via the International Resource Information System (IRIS) will be the source of data for these measures. Reporting screens for institutions can be viewed at: *http://iris.ed.gov/iris/pdfs/NRC.pdf*.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

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BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Upward Bound Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2022 for the Upward Bound (UB) Program, Assistance Listing Number 84.047A. This notice relates to the approved information collection under OMB control number 1840–0550.

DATES:

Applications Available: December 16, 2021.

Deadline for Transmittal of Applications: January 31, 2022.

Deadline for Intergovernmental Review: March 31, 2022.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf*.

FOR FURTHER INFORMATION CONTACT: Ken Waters, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C229, Washington, DC 20202–4260. Telephone: (202) 453–6273. Email: *Ken.Waters@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The UB Program is one of the seven programs known as the Federal TRIO Programs. The UB Program is a discretionary grant program that supports projects designed to provide students with the skills and motivation necessary to complete a program of secondary education and enter into and succeed in a program of postsecondary education. There are three types of grants under the UB Program: UB; Veterans UB; and UB Math and Science grants. In this notice we invite applications for UB grants only. We will invite applications for Veterans UB grants and UB Math and Science grants in forthcoming notices. Required services under the UB Program are specified in sections 402C(b) and (c) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070a–13), and permissible services under the UB Program are specified in section 402C(d) of the HEA.

Priorities: This notice contains three competitive preference priorities. Competitive Preference Priority 1 is from the Secretary's Notice of Administrative Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 9, 2020 (85 FR 13640) (Administrative Priorities). Competitive Preference Priorities 2 and 3 are from the Secretary's Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Note: Applicants must include in the one-page abstract submitted with the application a statement indicating which, if any, competitive preference priorities are addressed. If the applicant has addressed one or more of the competitive preference priorities, this information must also be listed on the UB Program Profile Form.

Competitive Preference Priorities: For FY 2022 and any subsequent year in

which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional nine points to an application, depending on how well the application meets the priorities.

The priorities are:

Competitive Preference Priority 1: Applications that Demonstrate a Rationale (Up to 3 points).

Under this priority, an applicant proposes a project that demonstrates a rationale (as defined in this notice).

Note: A list of evidence-based practices that are relevant to the UB Program is available at *www2.ed.gov/programs/trioupbound/index.html*. This list is not exhaustive. Additional information regarding the What Works Clearinghouse practice guides and intervention reports that could also be relevant is posted on the Department's website at *www.ies.ed.gov/ncee/wwc*.

Competitive Preference Priority 2: Meeting Student Social, Emotional, and Academic Needs.

Projects that are designed to improve students' social, emotional, academic, and career development, with a focus on underserved students, through providing multi-tiered systems of supports that address learning barriers both in and out of the classroom, that enable healthy development and respond to students' needs and which may include evidence-based trauma-informed practices and professional development for educators on avoiding deficit-based approaches.

Note: Because the UB Program supports students and not the professional development of educators, applicants should address supports for students only.

Competitive Preference Priority 3: Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change.

Projects that are designed to take a systemic evidence-based approach to improving outcomes for underserved students by establishing cross-agency partnerships, or community-based partnerships with local nonprofit organizations, businesses, philanthropic organizations, or others, to meet family well-being needs.

Definitions: The definitions below are from 34 CFR 77.1 and the Supplemental Priorities.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

*Disconnected youth m*eans an individual, between the ages 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution.

Evidence-based means the proposed project component is supported by evidence that demonstrates a rationale.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at *https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp*. Other sources include: *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf*, *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf*, and *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf*.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Underserved student means a student in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student experiencing homelessness or housing insecurity.

(c) A student who is in foster care.

(d) A student who is the first in their family to attend postsecondary education.

(e) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

(f) A student performing significantly below grade level.

Application Requirements: The following application requirements for FY 2022 are from section 402C(e) of the HEA (20 U.S.C. 1070a–13).

An applicant must submit, as part of its application—

(1) An assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) An assurance that the remaining youths participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or students who have a high risk for academic failure;

(3) A determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(4) An assurance that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of section 402C(e) of the HEA; and

(5) An assurance that no student will be denied participation in a project assisted under section 402C of the HEA because the student will enter the project after the 9th grade.

Program Authority: 20 U.S.C. 1070a–11 and 1070a–13.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 645. (e) The Administrative Priorities. (f) Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $1,297,761,000 for new awards for the Federal TRIO Programs for FY 2022, of which we intend to use an estimated $355,697,826 for the UB Program. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for the Federal TRIO Programs.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $287,537–$981,028.

Estimated Average Size of Awards: $368,217.

Maximum Award: The maximum award varies based on whether the applicant is currently receiving a UB Program grant, as well as the number of participants served.

- For an applicant that is not currently receiving a UB Program grant, the maximum award amount is $287,537, based upon a per-participant cost of no more than $4,792 and a minimum of 60 participants.
- For an applicant that is currently receiving a UB Program grant, the minimum number of participants is the number of participants in the project's FY 2021 grant award notification and the maximum award amount is equal to the applicant's base award amount for FY 2021.

Estimated Number of Awards: 966.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs; public and private agencies and organizations including community-based organizations with experience in serving disadvantaged youth; secondary schools; and combinations of such institutions, agencies, and organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

4. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

5. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

6. *Other:* An applicant may submit more than one application for an UB Program grant so long as each application describes a project that serves a different target area or target school (34 CFR 645.20(a)). The Secretary is not designating any additional populations for which an applicant may submit a separate application under this competition (34 CFR 645.20(b)). The term ''target area'' is defined as a geographic area served by a project (34 CFR 645.6(b)). The term ''target school'' is defined as a school designated by the applicant as a focus of project services (34 CFR 645.6(b)).

IV. Application Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf*, which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 645.41. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative, which includes the budget narrative, to no more than 65 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, excluding titles, headings, footnotes, quotations, references, and captions as well as all text in charts, tables, figures, and graphs, which may be single-spaced.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract. However, the recommended page limit does apply to all of the application narrative.

We recommend that any application addressing the competitive preference priorities include no more than three additional pages for each priority, for a total of up to nine additional pages for the competitive preference priorities if the three competitive preference priorities are addressed.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 645.31.

We will award up to 100 points to an application under the selection criteria and up to 9 additional points to an application under the competitive preference priorities, for a total score of up to 109 points. The maximum number of points available for each criterion is indicated in parentheses.

(a) *Need for the project.* (Up to 24 points) The Secretary evaluates the need for a Regular Upward Bound project in the proposed target area on the basis of information contained in the application which clearly demonstrates that—

(i) The income level of families in the target area is low; (Up to 4 points)

(ii) The education attainment level of adults in the target area is low; (Up to 4 points)

(iii) Target high school dropout rates are high; (Up to 4 points)

(iv) College-going rates in target high schools are low; (Up to 4 points)

(v) Student/counselor ratios in the target high schools are high; (Up to 4 points) and

(vi) Unaddressed academic, social and economic conditions in the target area pose serious problems for low-income, potentially first-generation college students. (Up to 4 points)

(b) *Objectives.* (9 points) The Secretary evaluates the quality of the applicant's objectives and proposed targets (percentages) in the following areas on the basis of the extent to which they are both ambitious, as related to the need data provided under paragraph (a) of this section, and attainable, given the project's plan of operation, budget, and other resources:

(i) Academic performance (GPA); (Up to 1 point)

(ii) Academic performance (standardized test scores); (Up to 1 point)

(iii) Secondary school retention and graduation (with regular secondary school diploma); (Up to 2 points)

(iv) Completion of rigorous secondary school program of study; (Up to 1 point)

(v) Postsecondary enrollment; (Up to 3 points) and

(vi) Postsecondary completion. (Up to 1 point)

(c) *Plan of operation.* (Up to 30 points) The Secretary determines the quality of the applicant's plan of operation by assessing the quality of—

(1) The plan to inform the faculty and staff at the applicant institution or agency and the interested individuals and organizations throughout the target area of the goals and objectives of the project; (Up to 3 points)

(2) The plan for identifying, recruiting, and selecting participants to be served by the project; (Up to 3 points)

(3) The plan for assessing individual participant needs and for monitoring the academic progress of participants while they are in Upward Bound; (Up to 3 points)

(4) The plan for locating the project within the applicant's organizational structure; (Up to 3 points)

(5) The curriculum, services and activities that are planned for participants in both the academic year and summer components; (Up to 3 points)

(6) The planned timelines for accomplishing critical elements of the project; (Up to 3 points)

(7) The plan to ensure effective and efficient administration of the project, including, but not limited to, financial management, student records management, and personnel management; (Up to 3 points)

(8) The applicant's plan to use its resources and personnel to achieve project objectives and to coordinate the Upward Bound project with other projects for disadvantaged students; (Up to 3 points)

(9) The plan to work cooperatively with parents and key administrative, teaching, and counseling personnel at the target schools to achieve project objectives; (Up to 3 points) and

(10) A follow-up plan for tracking graduates of Upward Bound as they enter and continue in postsecondary education. (Up to 3 points)

(d) *Applicant and community support.* (Up to 16 points) The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which—

(1) The applicant is committed to supplementing the project with resources that enhance the project such as: Space, furniture and equipment, supplies, and the time and effort of personnel other than those employed in the project. (Up to 8 points)

(2) Resources secured through written commitments from community partners. (Up to 8 points)

(i) An applicant that is an IHE must include in its application commitments from the target schools and community organizations;

(ii) An applicant that is a secondary school must include in its application commitments from IHEs, community organizations, and, as appropriate, other secondary schools and the school district; and

(iii) An applicant that is a community organization must include in its application commitments from the target schools and IHEs.

(e) *Quality of personnel.* (Up to 8 points) To determine the quality of personnel the applicant plans to use the Secretary looks for information that shows—

(1) The qualifications required of the project director, including formal training or work experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects; (Up to 3 points)

(2) The qualifications required of each of the other personnel to be used in the project, including formal training or work experience in fields related to the objectives of the project; (Up to 3 points)

(3) The quality of the applicant's plan for employing personnel who have succeeded in overcoming barriers similar to those confronting the project's target population. (Up to 2 points)

(f) *Budget and cost effectiveness.* (Up to 5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support planned project services and activities; (Up to 3 points) and

(2) Costs are reasonable in relation to the objectives and scope of the project. (Up to 2 points)

(g) *Evaluation plan.* (Up to 8 points) The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project and include both quantitative and qualitative evaluation measures; (Up to 4 points) and

(2) Examine in specific and measurable ways the success of the project in making progress toward achieving its process and outcomes objectives. (Up to 4 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 645.31. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process. Additionally, in accordance with 34 CFR 645.32, the Secretary will award prior experience points to applicants that conducted a UB Program project during budget periods 2017–18, 2018–19, 2019–20, and 2020–21, based on their documented experience. Prior experience points, if any, will be added to the application's averaged reader score to determine the total score for each application.

If there are insufficient funds for all applications with the same total scores, the Secretary will choose among the tied applications so as to serve geographic areas in which there is significant child poverty and that have been underserved by the UB Program in accordance with the following procedures. The Secretary will identify and recommend an award for—

• First, applicants in the funding band that applied to serve target schools within a Congressional District (a) that has a child poverty level greater than 30 percent and (b) where UB projects had previously served either 10 or fewer target schools or fewer than 150 students within that Congressional District. If this first tie-breaker provision exhausts available funds, then no further action is taken.

• Second, applicants in the funding band that applied to serve target schools within a Congressional District (a) that has a child poverty level greater than 25 percent and (b) where UB projects had previously served either 15 or fewer target schools or fewer than 200 students within that Congressional District. If this second tie-breaker provision exhausts available funds, then no further action is taken.

• Third, applicants in the funding band that applied to serve target schools within a Congressional District where UB projects had previously served zero target schools.

Note: Within each of step one, two, and three of the tie-breaker, if there is more than one application with the same score and insufficient funding to support these applications, the applicant proposing to serve the target schools within the more impoverished Congressional District will be the final application identified and recommended to receive an award.

In applying the tie-breaker criteria, the Department will use the most current data available. The criteria refer to Congressional Districts, and reference child poverty data within Congressional Districts. The most recent available Child Poverty data from the United States Census for Congressional Districts is for the 117th Congress, and therefore, the geographical boundaries used for the tie-breaker are defined for the 115th Congress. The number of target schools served within the boundaries of a Congressional District, and the number of students served within these target schools, will be derived from the UB Annual Performance Report (APR). The Department will use data from the 2020–2021 APR to count the number of target schools that receive services within Congressional District boundaries.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must

submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

5. *Performance Measures:* The success of the UB Program will be measured by the percentage of UB participants who enroll in and complete postsecondary education. The following performance measures have been developed to track progress toward achieving program success under the Government Performance and Results Act of 1993 and for purposes of Department reporting under 34 CFR 75.110:

1. The percentage of UB students who took two years of mathematics beyond Algebra I by the 12th grade;

2. The percentage of UB students who graduated from secondary school with a regular secondary school diploma;

3. The percentage of UB students who enrolled in postsecondary education;

4. The percentage of UB students who enrolled in a program of postsecondary education by the fall term following graduation from high school and who in the first year of postsecondary education placed into college-level math and English without need for remediation;

5. The percentage of former UB students who enrolled in a program of postsecondary education and graduated on time—within four years for the bachelor's degree and within two years for the associate's degree;

6. The percentage of UB participants who enrolled in a program of postsecondary education and attained either an associate's degree within three years or a bachelor's degree within six years of enrollment; and

7. The percentage of UB students expected to graduate high school in the reporting year who complete a Free Application for Federal Student Aid (FAFSA).

All UB Program grantees will be required to submit APRs.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021–27235 Filed 12–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity

AGENCY: U.S. Department of Education, National Advisory Committee on Institutional Quality and Integrity (NACIQI).

ACTION: Notice of membership.

SUMMARY: This notice lists the members of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). This notice is required under Section 114(e)(1) of the Higher Education Act of 1965, as amended (HEA).

ADDRESSES: U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 2C–159, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George Alan Smith, Executive Director/Designated Federal Official, NACIQI, U.S. Department of Education, 400 Maryland Ave. SW, Room 2C–159, Washington, DC, telephone: (202) 453–7757 or email *george.alan.smith@ed.gov.*

SUPPLEMENTARY INFORMATION:

NACIQI's Statutory Authority and Functions

The NACIQI is established under Section 114 of the HEA, and is composed of 18 members appointed—

(A) On the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) From among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education; and,

(C) On the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration of higher education.

The NACIQI meets at least twice a year and advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of Title IV of the HEA;
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvements in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

What are the terms of office for the committee members?

The term of office of each member is six years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

Who are the current members of the committee?

The current members of the NACIQI are:

Members Appointed by the Secretary of Education with Terms Expiring September 30, 2025:

- Ronnie L. Booth, Ph.D., Former President, Tri-County Technical College, Anderson, South Carolina.
- Wallace E. Boston, Ph.D., President Emeritus, American Public University System, Inc. Charles Town, West Virginia.
- David A. Eubanks, Ph.D., Assistant Vice President for Assessment and Institutional Effectiveness, Furman University, Greenville, South Carolina.
- Molly Hall-Martin, Student Member, University of Iowa, College of Education, Higher Education & Student Affairs, Coralville, Iowa.
- D. Michael Lindsay, Ph.D., President, Taylor University, Upland, Indiana.
- Mary Ellen Petrisko, Ph.D., Former President, WASC Senior College and University Commission, Pittsburgh, Pennsylvania.

Members Appointed by the Speaker of the House of Representatives with Terms Expiring September 30, 2026:

- Kathleen Sullivan Alioto, Ed.D., Strategic Advisor, Fundraiser, and Consultant, New York, New York, San Francisco, California, and Boston, Massachusetts.
- Roslyn Clark Artis, Ed.D., President, Benedict College, Columbia, South Carolina.
- Jennifer Blum, J.D., Principal, Blum Higher Education Advising, PLLC, Washington, DC.
- Arthur E. Keiser, Ph.D., Chancellor, Keiser University, Fort Lauderdale, Florida.
- Robert Mayes, Jr., CEO, Columbia Southern Education Group, Elberta, Alabama.
- Robert Shireman, Director of Higher Education Excellence and Senior Fellow, The Century Foundation, Berkeley, California.

Members Appointed by the President Pro Tempore of the Senate with Terms Expiring September 30, 2022:

- Jill Derby, Ph.D., Senior Consultant, Association of Governing Boards of Universities and Colleges, Gardnerville, Nevada.
- Paul J. LeBlanc, Ph.D., President, Southern New Hampshire University, Manchester, New Hampshire.
- Claude O. Pressnell Jr., Ed.D., President, Tennessee Independent Colleges and Universities Association, Nashville, Tennessee.
- Steven Van Ausdle, Ph.D., President Emeritus, Walla Walla Community College, Walla Walla, Washington.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1011c.

Miguel A. Cardona,

Secretary of Education.

[FR Doc. 2021–27271 Filed 12–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Foreign Language and Area Studies Fellowships Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2022 for the Foreign Language and Area Studies Fellowships (FLAS) Program, Assistance Listing Number 84.015B. This notice relates to the approved information collection under OMB control number 1840–0807.

DATES:

Applications Available: December 16, 2021.

Deadline for Transmittal of Applications: February 14, 2022.

Deadline for Intergovernmental Review: April 15, 2022.

Pre-Application Webinar information: The Department held a pre-application meeting via webinar for prospective applicants on November 10, 2021. The link for the webinar is located on the International and Foreign Language Education website at *https://www2.ed.gov/programs/iegpsnrc/applicant.html.*

Additionally, for new potential grantees unfamiliar with grantmaking at the Department, please consult our funding basics resources at *https://www2.ed.gov/documents/funding-101/funding-101-basics.pdf.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Timothy Duvall, U.S. Department of Education, International and Foreign Language Education, 400 Maryland Avenue SW, Room 2B225, Washington, DC 20202. Telephone: (202) 453–7521. Email: *NRC-FLAS@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The FLAS Program allocates academic year and summer fellowships to institutions of higher education (IHEs) and consortia of such institutions to assist meritorious undergraduate and graduate students receiving modern foreign language training in combination with area studies, international studies, or the international aspects of professional studies. FLAS fellowships may also assist graduate students engaged in predissertation-level study, preparation for dissertation research, dissertation research abroad, or dissertation writing.

Priorities: This notice contains two competitive preference priorities. Competitive Preference Priority 1 is from the notice of final priorities for the FLAS Program published in the **Federal Register** on May 30, 2014 (79 FR 31031) (NFP), and Competitive Preference Priority 2 is from 34 CFR 657.22(a), which provides that the Secretary may designate specific languages as a priority for the allocation of fellowships.

Competitive Preference Priorities: For FY 2022, these priorities are competitive preference priorities. Under 34 CFR 75.105(C)(2)(i), we award an additional five points to an application that meets Competitive Preference Priority 1, and an additional five points to an application that meets Competitive Preference Priority 2. An applicant may receive a total of up to 10 additional points under the competitive preference priorities.

These priorities are:

Competitive Preference Priority 1—FLAS Fellowships for Students Who Demonstrate Financial Need. (0 or 5 points)

Applications that propose to give preference when awarding fellowships to undergraduate students, graduate students, or both, to students who demonstrate financial need as indicated by the students' expected family contribution, as determined under part F of title IV of the Higher Education Act of 1965, as amended (HEA). This need determination will be based on the students' financial circumstances and not on other aid. The applicant must describe how it will ensure that all fellows who receive such preference show potential for high academic achievement based on such indices as grade point average, class ranking, or similar measures that the institution may determine.

Competitive Preference Priority 2—Academic Year FLAS Fellowships Awarded in the Less Commonly Taught Languages. (0 or 5 points)

Applications that propose to award at least 25 percent of academic year FLAS fellowships in modern foreign languages other than French, German, and Spanish.

Program Authority: 20 U.S.C. 1122.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR parts 655 and 657. (e) The NFP.

Areas of National Need: In accordance with section 601(c) of the HEA (20 U.S.C. 1121(c)), the Secretary consulted with a wide range of Federal agencies and received recommendations regarding national need for expertise in foreign language and world regions. These agencies' recommendations may be viewed on this web page: *https://www2.ed.gov/about/offices/list/ope/iegps/languageneeds.html.*

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $31,236,116.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FYs 2023, 2024, and 2025 from the list of unfunded applications from this competition.

Estimated Range of Awards: $154,500–$351,000 per year.

Estimated Average Size of Awards: $202,500 per year.

Estimated Number of Awards: 100.

FLAS Fellowship Subsistence Allowances: The subsistence allowance for a graduate student academic year fellowship is $20,000; the subsistence allowance for an undergraduate student academic year fellowship is $5,000. The subsistence allowance for a summer fellowship is $2,500 for graduate and undergraduate students.

FLAS Fellowship Institutional Payments: The institutional payment for a graduate student academic year fellowship is $18,000; the institutional payment for an undergraduate student academic year fellowship is $10,000. The institutional payment for a summer fellowship is $5,000 for graduate and undergraduate students.

Note: The Department is not bound by any estimates in this notice. The estimated range and average size of awards are based on a single 12-month budget period.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs (as defined in section 101 of the HEA (20 U.S.C. 1001)) or consortia of IHEs.

2. *Eligible Participants:* A student is eligible to receive a fellowship if the student—

(a)(1) Is a citizen or national of the United States; or (2) Is a permanent resident of the United States;

(b) Is accepted for enrollment or is enrolled—

(1) In an institution receiving an allocation of fellowships; and

(2) In a program that combines modern foreign language training with (i) area or international studies; or (ii) research and training in the international aspects of professional and other fields of study;

(c) Shows potential for high academic achievement based on such indices as grade point average, class ranking, or similar measures that the institution may determine;

(d) Is enrolled in a program of modern foreign language training in a language for which the institution has developed or is developing performance-based instruction;

(e) In the case of an undergraduate student, is in the intermediate or advanced study of a less commonly taught language; and

(f) In the case of a graduate student, is engaged in—

(1) Predissertation-level study;

(2) Preparation for dissertation research;

(3) Dissertation research abroad; or

(4) Dissertation writing.

3.a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Administrative Cost Limitation:* This program does not allow administrative expenses.

4. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under the FLAS Program may not award subgrants to entities to directly carry out project activities described in its application.

5. *Other:* (a) *Reasonable and Necessary Costs:* Applicants must ensure that all costs included in the proposed budget are necessary and reasonable to meet the goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

(b) *Audits:* (i) A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR part 200. (2 CFR 200.501(a))

(ii) A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to Other Audit Requirements), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO). (2 CFR 200.501(d))

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to

follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 656.30(b) and 657.33. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the priorities, selection criteria, and application requirements that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages for single institution applications, and to no more than 60 pages for consortia applications and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, and graphs.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit applies to the entirety of the application narrative. The recommended page limit does not apply to the Application for Federal Assistance face sheet (SF 424); the supplemental SF 424 form; Budget Information—Non-Construction Programs (ED 524); the detailed line item budget; the assurances and certifications, and the response to section 427 of the General Education Provisions Act; the project abstract, the table of contents, the list of acronyms, the response to the diverse perspectives/areas of need requirements, the FLAS project profile form, the FLAS-eligible languages form, or the appendices (curriculum vitae, course list, letters of support).

5. *Award Basis:* In determining whether to approve a grant award and the amount of such award, the Department will consider, among other things, the applicant's performance and use of funds under a previous or existing award under any Department program (34 CFR 75.217(d)(3)(ii) and 75.233). In assessing the applicant's performance and use of funds under a previous or existing award, the Secretary will consider, among other things, the outcomes the applicant has achieved and the results of any Departmental grant monitoring, including the applicant's progress in remedying any deficiencies identified in such monitoring.

V. Application Review Information

1. *General:* For the FY 2022 FLAS competition, all applications will be assigned to peer review panels based on world region—such as Africa, South Asia, the Middle East—or international in focus as specified in the FLAS application. Readers who serve on the peer review panels are selected based on their expertise in the specialized area studies, international studies, and modern foreign language(s) necessary to effectively review, score, and rank the applications assigned to them. For the FLAS competition, the Department will select applications for funding consideration based on the ranking of each application within its distinct regional panel.

2. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 657.21. The maximum score under the selection criteria, taken together with the maximum number of points awarded to applicants that address the competitive preference priorities, is 110 points.

(a) *Commitment to the subject area on which the applicant focuses* (up to 5 points). The Secretary reviews each application for information to determine—

(1) The extent to which the institution provides financial and other support to the operation of the applicant, teaching staff for the applicant's subject area, library resources, and linkages with institutions abroad; and

(2) The extent to which the institution provides financial support to students in fields related to the applicant's teaching program.

(b) *Quality of the applicant's language instructional program* (up to 14 points). The Secretary reviews each application for information to determine—

(1) The extent to which the applicant provides instruction in the languages of the applicant's subject area and the extent to which students enroll in the study of the languages of the subject area through programs or instruction offered by the applicant or other providers;

(2) The extent to which the applicant provides three or more levels of language training and the extent to which courses in disciplines other than language, linguistics, and literature are offered in appropriate foreign languages;

(3) Whether sufficient numbers of language faculty are available to teach the languages and the levels of instruction described in the application and the extent to which language teaching staff (including faculty and instructional assistants) have been exposed to current language pedagogy training appropriate for performance-based teaching; and

(4) The quality of the language program as measured by the performance-based instruction being used or developed, the adequacy of resources for language teaching and practice, and language proficiency requirements.

(c) *Quality of the applicant's non-language instructional program* (up to 14 points). The Secretary reviews each application for information to determine—

(1) The quality and extent of the applicant's course offerings in a variety of disciplines, including the extent to which courses in the applicant's subject matter are available in the institution's professional schools;

(2) The extent to which the applicant offers depth of specialized course coverage in one or more disciplines on the applicant's subject area;

(3) The extent to which the institution employs a sufficient number of teaching faculty to enable the applicant to carry out its purposes and the extent to which instructional assistants are provided with pedagogy training; and

(4) The extent to which interdisciplinary courses are offered for students.

(d) *Quality of curriculum design* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which the applicant's curriculum provides training options for students from a variety of disciplines and professional fields and the extent to which these programs and their requirements (including language requirements) are appropriate for an applicant in this subject area and result in graduate training programs of high quality;

(2) The extent to which the applicant provides academic and career advising services for students; and

(3) The extent to which the applicant has established formal arrangements for students to conduct research or study abroad and the extent to which these arrangements are used; and the extent to which the institution facilitates student access to other institutions' study abroad and summer language programs.

(e) *Quality of staff resources* (up to 13 points). The Secretary reviews each application to determine—

(1) The extent to which teaching faculty and other staff are qualified for the current and proposed activities and training programs, are provided professional development opportunities (including overseas experience), and participate in teaching, supervising, and advising students;

(2) The adequacy of applicant staffing and oversight arrangements and the extent to which faculty from a variety of departments, professional schools, and the library are involved; and

(3) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly.

(f) *Strength of library* (up to 6 points). The Secretary reviews each application to determine—

(1) The strength of the institution's library holdings (both print and non-print, English and foreign language) for students; and the extent to which the institution provides financial support for the acquisition of library materials and for library staff in the subject area of the applicant; and

(2) The extent to which research materials at other institutions are available to students through cooperative arrangements with other libraries or on-line databases.

(g) *Impact and evaluation* (up to 25 points). The Secretary reviews each application to determine—

(1) The extent to which the applicant's activities and training programs have contributed to an improved supply of specialists on the program's subject area as shown through indices such as undergraduate and graduate enrollments and placement data; and the extent to which the applicant supplies a clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, persons with disabilities, and the elderly;

(2) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements;

(3) The degree to which fellowships awarded by the applicant address national needs; and

(4) The extent to which the applicant provides an evaluation plan that is comprehensive and objective and that will produce quantifiable, outcome-measure-oriented data; and the extent to which recent evaluations have been used to improve the applicant's program.

(h) *Foreign language and area studies fellowships awardee selection procedures* (up to 10 points). The Secretary reviews each application to determine whether the selection plan is of high quality, showing how awards will be advertised, how students apply, what selection criteria are used, who selects the fellows, when each step will take place, and how the process will result in awards being made to correspond to any announced priorities.

3. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management (SAM). You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer

effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170, should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

Performance reports for the FLAS Program must be submitted electronically into the Office of International and Foreign Language Education web-based reporting system, International Resource Information System (IRIS). For information about IRIS and to view the reporting instructions, please go to: *https://iris.ed.gov/iris/pdfs/FLAS_director.pdf.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. If a grantee is provided additional funding for this purpose, the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the following measures will be used by the Department to evaluate the success of the FLAS program:

(a) Percentage of FLAS-graduated fellows who secured employment that utilizes their foreign language and area studies skills within eight years after graduation, based on the FLAS tracking survey.

(b) Percentage of FLAS master's and doctoral graduates who studied priority languages as defined by the Secretary of Education.

(c) Percentage of FLAS fellows who increased their foreign language reading, writing, and/or listening/speaking scores by at least one proficiency level.

(d) *Efficiency:* Cost per FLAS fellowship program fellow who increased his/her reading, writing, and/or listening/speaking language score by at least one proficiency level.

The information provided by grantees in their performance reports submitted via IRIS will be the source of data for these measures. Reporting screens for institutions can be viewed at: *https://iris.ed.gov/iris/pdfs/FLAS_director.pdf.*

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021–27230 Filed 12–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Eligibility Designations and Applications for Waiving Eligibility Requirements; Programs Under Parts A and F of Title III and Programs Under Title V of the Higher Education Act of 1965, as Amended (HEA)

AGENCY: Office of Postsecondary Education, Department of Education (Department).

ACTION: Notice.

SUMMARY: The Department announces the process for designation of eligible institutions and invites applications for waivers of eligibility requirements for fiscal year (FY) 2022 for the programs under the Higher Education Act of 1965, as amended (HEA), listed in **SUPPLEMENTARY INFORMATION.**

DATES:

Applications Available: December 16, 2021.

Deadline for Transmittal of Applications: January 21, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher Smith, Institutional Service, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B108, Washington, DC 20202. Telephone: (202) 453–7946 or (202) 262–7141. Email: *Christopher.Smith@ed.gov;* or Jason Cottrell, Ph.D., Institutional Service, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B127, Washington, DC 20202. Telephone: (202) 453–7530 or (202) 262–1833. Email: *Jason.Cottrell@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department announces the process for designation of eligible institutions and invites applications for waivers of eligibility requirements for FY 2022 for the following programs:

1. *Programs authorized under title III, part A of the HEA:* Strengthening Institutions Program (Part A SIP), Alaska Native and Native Hawaiian-Serving Institutions (Part A ANNH), Predominantly Black Institutions (Part A PBI), Native American-Serving Nontribal Institutions (Part A NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part A AANAPISI).

2. *Programs authorized under title III, part F of the HEA:* Hispanic-Serving Institutions STEM and Articulation (Part F HSI STEM and Articulation), Predominantly Black Institutions (Part F PBI), Alaska Native and Native Hawaiian-Serving Institutions (Part F ANNH), Native American-Serving Nontribal Institutions (Part F NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part F AANAPISI).

3. *Programs authorized under title V of the HEA:* Developing Hispanic-Serving Institutions (HSI) and Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA).

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs: The Part A SIP, Part A ANNH, Part A PBI, Part A NASNTI, and Part A AANAPISI programs are authorized under title III, part A of the HEA. The Part F HSI STEM and Articulation, Part F PBI, Part F ANNH, Part F NASNTI, and Part F AANAPISI programs are authorized under title III, part F of the HEA. The HSI and PPOHA programs are authorized under title V of the HEA. Please note that certain programs addressed in this notice have the same or similar names as other programs that are authorized under a different statutory authority. For this reason, we specify the statutory authority as part of the acronym for certain programs.

Under the programs discussed above, institutions are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. An institution of higher education that is designated as an eligible institution may also receive a waiver of certain non-Federal cost-sharing requirements for one year under the Federal Supplemental Educational Opportunity Grant (FSEOG) program authorized by title IV, part A of the HEA and the Federal Work-Study (FWS) program authorized by section 443 of the HEA. Qualified (eligible) institutions may receive the FSEOG and FWS waivers for one year even if they do not receive a grant under a title III or V grant program. An applicant that receives a grant from the Student Support Services (SSS) program that is authorized under section 402D of the HEA, 20 U.S.C. 1070a-14, may receive a waiver of the required non-Federal cost share for institutions for the duration of the grant. An applicant that receives a grant from the Undergraduate International Studies and Foreign Language (UISFL) program that is authorized under section 604 of the HEA, 20 U.S.C. 1124, may receive a waiver or reduction of the required non-Federal cost share for institutions for the duration of the grant.

Sections 312 and 502 of the HEA, 34 CFR 607.2–607.5, and 34 CFR 606.2–606.5 include most of the basic eligibility requirements for grant programs authorized under titles III and V of the HEA. Sections 312(b)(1)(B) and 502(a)(2)(A) of the HEA provide that, to be eligible for these programs, an institution of higher education's average ''educational and general expenditures'' (E&G) per full-time equivalent (FTE) undergraduate student must be less than the average E&G expenditures per FTE undergraduate student of institutions that offer similar instruction in that year.

The National Center for Education Statistics (NCES) calculates Core Expenses per FTE of institutions, a statistic like E&G per FTE. Both E&G per FTE and Core Expenses per FTE are based on regular operational expenditures of institutions (excluding auxiliary enterprises, independent operations, and hospital expenses). They differ only in that E&G per FTE is based on fall undergraduate enrollment, while Core Expenses per FTE is based on 12-month undergraduate enrollment for the academic year.

To avoid inconsistency in the data submitted to, and produced by, the Department, for the purpose of sections 312(b)(1)(B) and 502(a)(2)(A) of the HEA, E&G per FTE is calculated using the same methodology as Core Expenses per FTE. Accordingly, the Department will apply the NCES methodology for calculating Core Expenses per FTE. Institutions requesting an eligibility exemption determination must use the Core Expenses per FTE data reported to NCES' Integrated Postsecondary Education Data System (IPEDS) for the most currently available academic year, in this case academic year 2019–2020.

Special Note: To qualify as an eligible institution under the grant programs listed in this notice, your institution must satisfy several criteria. For most of these programs, these criteria include those that relate to the enrollment of needy students and to the Core Expenses per FTE student count for a specified base year. The most recent data available in IPEDS for Core Expenses per FTE are for base year 2019–2020. To award FY 2022 grants in a timely manner, we will use these data to evaluate eligibility.

Accordingly, each institution interested in either applying for a new grant under the title III or V programs addressed in this notice, or requesting a waiver of the non-Federal cost share, must be designated as an eligible institution in FY 2022. Under the HEA, any institution interested in applying for a grant under any of these programs must first be designated as an eligible institution. *See* 34 CFR 606.5 and 607.5.

Note: Please be advised that final eligibility is program specific. Applicants should refer to the program in question for programmatic requirements. Further information regarding eligibility is set forth below.

Eligible applicants: The eligibility requirements for the programs authorized under part A of title III of the HEA are in sections 312 and 317–320 of the HEA (20 U.S.C. 1058, 1059d–1059g) and in 34 CFR 607.2–607.5. The

regulations may be accessed at *www.ecfr.gov/cgi-bin/text-idx?SID=bc12bf5d685021e069cd1a15352b381a&mc=true&node=pt34.3.607&rgn=div5*. The eligibility requirements for the programs authorized by part F of title III of the HEA are in section 371 of the HEA (20 U.S.C. 1067q). There are currently no specific regulations for these programs.

The eligibility requirements for the title V HSI program are in part A of title V of the HEA and in 34 CFR 606.2–606.5. The regulations may be accessed at *www.ecfr.gov/cgi-bin/text-idx?SID=bc12bf5d685021e069cd1a15352b381a&mc=true&node=pt34.3.606&rgn=div5l.*

The requirements for the PPOHA program are in part B of title V of the HEA and in the notice of final requirements published in the **Federal Register** on July 27, 2010 (75 FR 44055), and in 34 CFR 606.2(a) and (b) and 606.3–606.5.

The Department has instituted a process known as the Eligibility Matrix (EM), under which we use information institutions submitted to IPEDS to determine which institutions meet the basic eligibility requirements for the programs authorized by title III or V of the HEA listed above. To make eligibility determinations for FY 2022, we use an institution's 2019–2020 enrollment and fiscal data. Beginning December 16, 2021, an institution will be able to review the Department's EM eligibility decision by checking the eligibility system linked through the Department's Institutional Service Eligibility website: *http://www2.ed.gov/about/offices/list/ope/idues/eligibility.html.* The direct link is *https://HEPIS.ed.gov/.*

The EM is a read-only worksheet that lists all potentially eligible postsecondary institutions. If the EM entry for your institution indicates your institution is eligible for a particular program grant, you will not need to apply for eligibility or submit a waiver request as described in this notice. Rather, if you choose to apply for the grant, you may print out the eligibility letter directly. If your institution intends to apply for a program grant for which your EM entry does not show your institution is eligible, you must submit the application discussed in this notice before the application deadline of January 21, 2022.

To check your institution's eligibility in the EM, go to *https://HEPIS.ed.gov/,* and log into the system using your email address and password. If you are not sure whether you have an account in the system, click the ''New User'' button. If you have an account, the system will walk you through setup. Note that it may take up to five business days to verify user identity and to complete new account setup, so please allow enough time to complete the application. If the Grant Eligibility Application (GEA) system is open for new applications, you may check your institution's eligibility status by clicking the ''View pre-Eligibility Information'' button. Your institution's eligibility information will display.

If the EM does not show that your institution is eligible for a program, or if your institution does not appear in the eligibility system, or if you disagree with the eligibility determination reflected in the eligibility system, you can apply for a waiver or reconsideration using the process described in this notice. The application process mirrors that used in previous years: Choose the waiver option on the website at *https://HEPIS.ed.gov/* and submit your institution's application.

Please note that through this process, the Department does not certify, nor designate, an institution as a Historically Black College or University, Tribally Controlled College or University, Minority-Serving Institution, or Hispanic-Serving Institution. The Department's EM eligibility determination that an institution is eligible solely relates to the institution's ability to apply for and receive grants under certain programs as discussed in this notice.

Note: Institutions that submit a waiver request for either the Core Expenses per FTE or the Needy Student requirement must submit the required documents and supporting data and evidence by the deadline. All reviews and decisions will be made approximately two weeks after the deadline.

Enrollment of Needy Students: As noted above, to qualify as an eligible institution under the grant programs listed in this notice, your institution must satisfy several criteria, including those that relate to the enrollment of needy students and to the Core Expenses per FTE student count for a specified base year.

As to the enrollment of needy students, for programs under titles III and V (excluding the PBI programs), an institution is considered to have an enrollment of needy students if it meets either of the following two criteria: (1) At least 50 percent of its degree-seeking students received financial assistance under the Federal Pell Grant, FSEOG, or FWS programs; or (2) the percentage of its undergraduate degree-seeking students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

To qualify under the second criterion, an institution's Federal Pell Grant percentage for base year 2019–2020 must be more than the median for its category of comparable institutions provided in the 2019–2020 Median Pell Grant and Average Core Expenses per FTE Student Table in this notice. If your institution qualifies only under the first criterion, you must submit an application containing the data necessary to satisfy the first criterion (showing at least 50 percent of your degree-seeking students received financial assistance under one of several Federal student aid programs (the Federal Pell Grant, FSEOG, or FWS programs)), since these data are not available in IPEDS.

''Enrollment of Needy Students'' for purposes of the Part A PBI program is separately defined in section 318(b)(2) of the HEA, and for purposes of the Part F PBI program is defined in section 371(c)(3) of the HEA.

Core Expenses per FTE Student: For each of the following programs, an institution should compare its base year 2019–2020 Core Expenses per FTE student to the average Core Expenses per FTE student for its category of comparable institutions using the 2019–2020 Median Pell Grant and Average Core Expenses per FTE Student Table in this notice: Title III, Part A SIP; Part A ANNH; Part A PBI; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F PBI; Part F ANNH; Part F NASNTI; Part F AANAPISI; Title V, Part A HSI; and Title V, Part B PPOHA. An institution satisfies this program eligibility requirement if its Core Expenses for the 2019–2020 base year are less than the average Core Expenses of its comparable institutional category.

Core Expenses are defined as the total expenses for the essential education activities of the institution. Core Expenses for public institutions reporting under the Governmental Accounting Standards Board (GASB) requirements include expenses for instruction, research, public service, academic support, student services, institutional support, operation and maintenance of plant, depreciation, scholarships and fellowships, interest, and other operating and non-operating expenses. Core Expenses for institutions reporting under the Financial Accounting Standards Board (FASB) standards (primarily private, not-for-profit, and for-profit institutions)

include expenses for instruction, research, public service, academic support, student services, institutional support, net grant aid to students, and other expenses. Core Expenses do not include Federal student aid for the purposes of eligibility. For both FASB and GASB institutions, Core Expenses do not include expenses for auxiliary enterprises (*e.g.,* bookstores, dormitories), hospitals, and independent operations.

The following table identifies base year 2019–2020 median Federal Pell Grant percentages and average Core Expenses per FTE student for the four categories of comparable institutions:

Type of institution	Base year 2019–2020 median pell grant percentage	Base year 2019–2020 average core expenses per FTE student
Two-year Public Institutions	32	$15,641
Two-year Non-profit Private Institutions	54	18,412
Four-year Public Institutions	35	34,275
Four-year Non-profit Private Institutions	35	42,922

Waiver Information: Institutions that do not meet the needy student enrollment requirement or the Core Expenses per FTE requirement may apply to the Secretary for a waiver of these requirements, as described in sections 392 and 522 of the HEA, and in the implementing regulations at 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b), and 607.4(c) and (d).

Institutions requesting a waiver of the needy student enrollment requirement or the Core Expenses per FTE requirement must include in their application detailed evidence supporting the waiver request, as described in the instructions for completing the application.

The regulations governing the Secretary's authority to grant a waiver of the needy student requirement refer to ''low-income'' students or families, at 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3). The regulations at 34 CFR 606.3(c) and 607.3(c) define ''low-income'' as an amount that does not exceed 150 percent of the amount equal to the poverty level, as established by the U.S. Census Bureau.

For purposes of this waiver provision, the following table sets forth the low-income levels (at 150 percent) for various family sizes:

2020 Annual Low–Income Levels

Size of family unit	Family income for the 48 contiguous states, DC, and outlying jurisdictions	Family income for Alaska	Family income for Hawaii
1	$19,140	$23,925	$22,020
2	25,860	32,325	29,745
3	32,580	30,725	37,470
4	39,300	49,125	45,195
5	46,020	57,525	52,920
6	52,740	65,925	60,645
7	59,460	74,325	68,370
8	66,180	82,725	76,095

Note: We use the 2020 annual low-income levels because those are the amounts that apply to the family income reported by students enrolled for the fall 2019 semester. For family units with more than eight members, add the following amount for each additional family member: $6,720 for the contiguous 48 States, the District of Columbia, and outlying jurisdictions; $8,400 for Alaska; and $7,725 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels established by the U.S. Census Bureau for determining poverty status. The poverty guidelines were published on January 17, 2020, in the **Federal Register** by the U.S. Department of Health and Human Services (85 FR 3060), with an effective date of January 14, 2020.

Information about ''metropolitan statistical areas'' referenced in 34 CFR 606.3(b)(4) and 607.3(b)(4) may be obtained at: *www.census.gov/prod/2010pubs/10smadb/appendixc.pdf* and *www.census.gov/prod/2008pubs/07ccdb/appd.pdf.*

Electronic Submission of Waiver Applications: If your institution does not appear in the eligibility system as eligible for a program to which you seek to apply, you must apply for a waiver of the eligibility requirements. To request a waiver, you must upload a narrative at *https://HEPIS.ed.gov/.*

Exception to the Electronic Submission Requirement: We discourage paper applications, but if electronic submission is not possible (*e.g.,* you do not have access to the internet), you must provide a written statement that you intend to submit a paper application. This written statement must be postmarked no later than two weeks before the application deadline date (14 calendar days or, if the 14th calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday).

Please send this statement to one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

If you submit a paper application, you must mail your application, on or before the application deadline date, to the

Department at the following address: U.S. Department of Education, Attention: Jason Cottrell, 400 Maryland Avenue SW, Room 2B127, Washington, DC 20202.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for certain title III programs in 34 CFR part 607, and for the HSI program in 34 CFR part 606. (e) The notice of final requirements for the PPOHA program published in the **Federal Register** on July 27, 2010 (75 FR 44055).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Note: There are no program-specific regulations for the Part A PBI, Part A NASNTI, and Part A AANAPISI programs or any of the title III, part F programs. Also, the HEA has been amended since the Department last issued regulations for programs established under titles III and V of that statute. Accordingly, we encourage each potential applicant to read applicable sections of the HEA to fully understand all applicable program eligibility requirements.

II. Other Information

Accessible Format: On request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021–27212 Filed 12–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–399–000.

Applicants: Destin Pipeline Company, L.L.C.

Description: Compliance filing: Destin Pipeline Company NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5043.

Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: RP22–400–000.

Applicants: Chandeleur Pipe Line, LLC.

Description: Compliance filing: Chandeleur NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5045.

Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: RP22–401–000.

Applicants: High Point Gas Transmission, LLC.

Description: Compliance filing: High Point Gas Transmission NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5046.

Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: RP22–402–000.

Applicants: BBT Trans-Union Interstate Pipeline, L.P.

Description: Compliance filing: BBT-Trans Union NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5047.

Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: RP22–403–000.

Applicants: BBT AlaTenn, LLC.

Description: Compliance filing: BBT (Ala-Tenn) NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5048.

Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: RP22–404–000.

Applicants: BBT Midla, LLC.

Description: Compliance filing: BBT (Midla) NAESB Compliance Filing to be effective 6/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5049.

Comment Date: 5 p.m. ET 12/22/21.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 10, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27245 Filed 12–15–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–23–000]

Southern Natural Gas Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 2, 2021, Southern Natural Gas Company, L.L.C. (Southern Natural), 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, filed in the above referenced docket a prior notice pursuant to section 157.210 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued to Southern Natural by the Commission in Docket No. CP82–406–000.[1] Southern Natural seeks authorization to: (1) Install 3.0 miles of 36-inch-diameter pipeline loop on Southern Natural's South Main 3rd Loop Line in Marengo and Hale Counties, Alabama; (2) install a crossover header at approximately MP 135.890 on Southern Natural's South Main 3rd Loop Line in Marengo County to connect the existing South Main Loop Line and South Main 2nd Loop Line to the new South Main 3rd Loop Line Extension; and (3) relocate pig launcher from approximately milepost (MP) 138.858 to MP 135.890 on Southern Natural's South Main 3rd Loop Line (South System 2022 Project). Southern Natural states the South System 2022 Project will enable Southern Natural to provide increased deliveries of 25,500 dekatherms per day of new firm transportation capacity to existing delivery points in zone 2 and zone 3 on Southern Natural's system. Southern Natural's estimates the cost of the Project to be $14,000,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Tina Hardy, Manager of Rates and Regulatory for Southern Natural Gas Company, L.L.C., 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, or call (205) 325–3668, or by email *tina_hardy@kindermorgan.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 8, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is February 8, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is February 8, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 8, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

[1] *Southern Natural Gas Company,* 20 FERC ¶ 62,414 (1982).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–23–000 in your submission. The Commission encourages electronic filing of submissions.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(1) You can file a paper copy of your submission. Your submission must reference the Project docket number CP22–23–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *tina_hardy@kindermorgan.com* or 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 10, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27244 Filed 12–15–21; 8:45 am]

BILLING CODE 6717–01–P

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3196–003; ER11–2514–005.

Applicants: PEI Power II, LLC, PEI Power LLC.

Description: Notice of Change in Status of PEI Power LLC, et al.

Filed Date: 12/9/21.

Accession Number: 20211209–5207.

Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER21–2695–001.

Applicants: Lincoln Land Wind, LLC.

Description: Compliance filing: Compliance Filing Revising Tariff Record to be effective 12/1/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5155.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–95–001.

Applicants: Basin Electric Power Cooperative.

Description: Tariff Amendment: Basin Electric Submission for Extension of Time for Commission Action in ER22–95 to be effective 12/15/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5107.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–381–001.

Applicants: Dunns Bridge Solar Center, LLC.

Description: Tariff Amendment: Dunns Bridge Solar Center, LLC—Amendment to MBR Application (ER22–381–) to be effective 1/10/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5092.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–561–000.

Applicants: PJM Interconnection, L.L.C.

Description: Filing Withdrawal: Withdrawal of FA with AEP and City of Danville SA No. 2104 Docket No. ER22–563 to be effective N/A.

Filed Date: 12/10/21.

Accession Number: 20211210–5135.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–604–000.

Applicants: Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 1/28/2022.

Filed Date: 12/9/21.

Accession Number: 20211209–5170.

Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–605–000.

Applicants: Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 1/3/2022.

Filed Date: 12/9/21.

Accession Number: 20211209–5171.

Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–606–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii: 205 Filing CRA between NMPC–NYPA SA No. 2669 to be effective 10/20/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5018.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–607–000.

Applicants: MidAmerican Central California Transco, LLC.

Description: § 205(d) Rate Filing: 2021 Annual TRBAA Update Filing to be effective 1/1/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5068.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–608–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii: ATSI submits two ECSAs, SA Nos. 6139 and 6140 to be effective 2/9/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5095.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–609–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii: MAIT submits four ECSAs, SA Nos. 6136–6138 & 6141 to be effective 2/9/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5102.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–610–000.

Applicants: PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: PPL Electric Utilities Corporation submits tariff filing per 35.13(a)(2)(iii: PPL Electric submits SA No. 6263 to be effective 12/11/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5111.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–611–000.

Applicants: Wildcat I Energy Storage, LLC.

Description: § 205(d) Rate Filing: Revised Wildcat I Energy Storage Market Based Rate Tariff to be effective 12/11/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5114.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–612–000.

Applicants: The Narragansett Electric Company.

Description: Tariff Amendment: Notice of Cancellation of CRA with CV South Street Landing LLC to be effective 2/9/2022.

Filed Date: 12/10/21.

Accession Number: 20211210–5116.

Comment Date: 5 p.m. ET 1/3/22.

Docket Numbers: ER22–613–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, SA No. 6231; Queue No. AG2–392 to be effective 11/11/2021.

Filed Date: 12/10/21.

Accession Number: 20211210–5127.

Comment Date: 5 p.m. ET 1/3/22.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: December 10, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27242 Filed 12–15–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974; System of Records

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Energy Regulatory Commission (FERC) is publishing notice of modifications to an existing FERC system of records, FERC–41 titled *FERC Transit Subsidy Program (TSP) Records.* This notices adds 10 new routine uses, including two prescribed by the Office of Management and Budget (OMB) Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information,* January 3, 2017, that will permit FERC to disclose information as necessary in response to an actual or suspected breach that pertains to a breach of its own records or to assist another agency in its efforts to respond to a breach. This System of Records Notice (SORN) also describes the system's manager and location change.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses, which will go into effect 30 days after publication of this notice, on December 16, 2021, unless comments have been received from interested members of the public requiring modification and republication of the notice. Please submit any comments by January 18, 2022.

ADDRESSES: Any person interested in commenting on the establishment of this modified system of records may do so by submitting comments electronically to: *Privacy@ferc.gov.* (Include reference to ''FERC 41—Commission Transit Subsidy Program (TSP) Records'' in the subject line of the message.)

For United States Postal Service-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE, Room 4A–05, Washington, DC 20426.

For hand-delivered or courier-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chief Human Capital Officer, Office of the Executive Director, 888 First Street NE, Washington, DC 20426, (202) 502–6270.

SUPPLEMENTARY INFORMATION: The FERC Transit Subsidy Program (TSP) notice includes 10 new routines, including two prescribed routine uses that will permit FERC to disclose information as necessary in response to an actual or suspected breach that pertains to a breach of its own records or to assist another agency in its efforts to respond to a breach. This notice also addresses the system's manager and location change.

SYSTEM NAME AND NUMBER:

FERC Transit Subsidy Program (TSP): FERC–41.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Logistics Operations, Logistics Management Division, 888 First Street NE, Washington, DC 20426.

SYSTEM MANAGER(S):

Logistics Operations Branch Chief, Federal Energy Regulatory Commission, Logistics Operations, Logistics Management Division, 888 First Street NE, Washington, DC 20426.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR 101–6.3—*Ridesharing.*

Public Law 103–172, Federal Employees Clean Air Incentives Act (5 U.S.C. Section 7905).

PURPOSE(S) OF THE SYSTEM:

The FERC Transit Subsidy Program (TSP) Records system supports the overall management of transit subsidy operations for the agency. The application is managed and controlled by the Commission's Logistics Management Division and is utilized by authorized users to submit applications for the federal government's transit subsidy benefits program; authorized users are able to electronically submit applications to request transit subsidies. Information is used to track employees' commuting expenses and to monitor the program budget. Information maintained in the system are the employee's names, monthly costs of

commuting, modes of transportation, home addresses, phone numbers, and SmarTrip card numbers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by the system are employees of FERC actively enrolled in the transit benefits program who use public transportation and are receiving commuting cost disbursements.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Transit Subsidy Program system maintains records on employee's name, office and home address, office phone number, monthly commuting cost, SmarTrip card number, and mode of public transportation.

RECORD SOURCE CATEGORIES:

Information is obtained from current employees seeking to participate in the federal government's employee transit subsidy benefits program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, information maintained in this system may be disclosed to authorized entities outside FERC for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) are as follows:

1. To appropriate agencies, entities, and persons when (a) FERC suspects or has confirmed that there has been a breach of the system of records; (b) FERC 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 the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

2. To another Federal agency or Federal entity, when FERC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (c) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

4. To the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

5. To the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

6. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, where the record is relevant and necessary to the proceeding and the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

7. To the Department of Justice (DOJ) for its use in providing legal advice to FERC or in representing FERC in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by FERC to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest: (a) FERC; (b) any employee of FERC in his or her official capacity; (c) any employee of FERC in his or her individual capacity where DOJ has agreed to represent the employee; or (d) the United States, where FERC determines that litigation is likely to affect FERC or any of its components.

8. To non-Federal Personnel, such as contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FERC or Federal Government and who have a need to access the information in the performance of their duties or activities.

9. To the National Archives and Records Administration in records management inspections and its role as Archivist, as permitted by 44 U.S.C. 2904 and 2906.

10. To appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the record indicates a violation or potential violation of civil or criminal law, rule, regulation, order.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic format and stored by individuals first and last names. In addition, all FERC employees and contractors with authorized access have undergone a thorough background security investigation. Data access is restricted to agency personnel or contractors whose responsibilities require access. Access to electronic records is controlled by user ID and password combination and/or other network access or security controls (*e.g.,* firewalls). Role based access is used to restrict electronic data access and the organization employs the principle of least privilege, allowing only authorized users with access (or processes acting on behalf of users) necessary to accomplish assigned tasks in accordance with organizational missions and business functions.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by employee's Name or SmarTrip card number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with the applicable National Archives and Records Administration schedules, including Items 130, Transportation Subsidy Program Administrative Records and 131, Transportation Subsidy Program Individual Cases Files, at *https://www.archives.gov/files/records-mgmt/grs/grs02-4.pdf.* Item 130 are temporary, destroyed when 3 years old, but longer retention is authorized if required for business use. Item 131 are temporary, destroyed 2 years after employee participation concludes, but longer retention is authorized if required for business use. Additionally, records are retained in accordance with General Records Schedule (GRS) 5.2: Transitory and Intermediary Records (GRS 5.2 Item 020 Intermediary Records: *https://www.archives.gov/files/records-mgmt/grs/grs05-2.pdf*).'' Materials, including hard copy printouts derived from electronic records created on an ad hoc basis for reference purposes or to meet day-today business needs, are destroyed when the Commission determines that they are no longer needed for administrative, legal, audit, or other operational purposes.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Physical access to FERC is controlled by security guards and admission is limited to those individuals possessing a valid identification card or being escorted by an authorized FERC

representative. Data center buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures. Physical access to the server rooms is limited to authorized personnel only. Records are maintained in lockable file cabinets in a lockable room with access limited to those employees whose official duties require access; servers are stored in secured facilities in cipher locked server rooms. Computer data is secured by password. The system is secured with the safeguards required by FedRAMP and NIST SP 800–53.

RECORD ACCESS PROCEDURES:

Paper records are maintained in lockable file cabinets in a lockable room with access limited to those employees whose official duties require access. Digital records are accessed by authorized employees by using their user ID and password.

Submit a Privacy Act Request:

The Privacy Act permits access to records about yourself that are maintained by FERC in a Privacy Act system of records. In addition, you may request that incorrect or incomplete information be changed or amended. Privacy requests follow FERC's *Freedom of Information Act (FOIA) request process.* You may access the FOIA website at *https://www.ferc.gov/freedom-information-act-foia-and-privacy-act.*

For questions: Contact the FOIA Service Center at 202–502–6088 or by email at *foia-ceii@ferc.gov.*Written request for access to records should be directed to:

For United States Postal Service-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

For hand-delivered or courier-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

CONTESTING RECORD PROCEDURES:

The Privacy Act permits access to records about yourself that are maintained by FERC in a Privacy Act system of records. In addition, you may request that incorrect or incomplete information be changed or amended. Privacy requests follow FERC's *Freedom of Information Act (FOIA) request process.* You may access the FOIA website at *https://www.ferc.gov/freedom-information-act-foia-and-privacy-act.*

For questions: Contact the FOIA Service Center at 202–502–6088 or by email at *foia-ceii@ferc.gov.* Written request for access to records should be directed to:

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For hand-delivered or courier-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

NOTIFICATION PROCEDURES:

The Privacy Act permits access to records about yourself that are maintained by FERC in a Privacy Act system of records. In addition, you may request that incorrect or incomplete information be changed or amended.

Privacy requests follow FERC's *Freedom of Information Act (FOIA) request process.* You may access the FOIA website at *https://www.ferc.gov/freedom-information-act-foia-and-privacy-act.*

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For hand-delivered or courier-delivered mail: Director, Office of External Affairs, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

FERC previously published the Transit Subsidy Program (TSP) Records in the **Federal Register** as Transit Subsidy Program (TSP) Records. The previous **Federal Register** notice citation is **Federal Register** Vol. 65, No. 79, Monday, April 24, 2000.

Issued: December 10, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27243 Filed 12–15–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9228–01–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency (EPA).

ACTION: Notice of a modified system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Mission Support, Office of Enterprise Information Programs is giving notice that it proposes to modify a system of records pursuant to the provisions of the Privacy Act of 1974. eDiscovery Enterprise Tool Suite, EPA–63 is being modified to update the system manager, add locations where the data may be stored, modify Routine Use L, and add Routine Use M. The purpose of the system is to assist with the preservation, search, processing, review, and production of electronically stored information (ESI) in support of legal discovery or to respond to other formal information requests, such as FOIA requests and congressional inquiries. Unless noted in this modification, all exemptions and provisions included in the previously published system of record notice for eDiscovery Enterprise Tool Suite, EPA–63 will transfer to the modified system of record notice for eDiscovery Enterprise Tool Suite, EPA–63.

DATES: Persons wishing to comment on this system of records notice must do so by January 18, 2022. New or Modified routine uses if adding or changing routine uses for this modified system of records will be effective January 18, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2012–0882, by one of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: (202) 566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special

arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2012–0882. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for the EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

Temporary Hours During COVID–19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information about EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Division Director, eDiscovery Division, Office of Mission Support, Office of Enterprise Information Programs, 1301 Constitution Ave. NW, Washington, DC 20001.

SUPPLEMENTARY INFORMATION: eDiscovery Enterprise Tool Suite, EPA–63 is being modified to update the System Manager to the Director of the eDiscovery Division, to add government-certified cloud locations where data may be stored to the System Location section, to modify Routine Use L, and to add Routine Use M.

SYSTEM NAME AND NUMBER:

eDiscovery Enterprise Tool Suite, EPA–63.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

eDiscovery Enterprise Tool Suite, U.S. Environmental Protection Agency, eDiscovery Division, Office of Mission Support, Office of Enterprise Information Programs, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Records are also maintained in Research Triangle Park, 109 T.W. Alexander Drive, Durham, NC 27709, and other Agency offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Agency's Chief Information Officer (CIO).

SYSTEM MANAGER(S):

The system manager is the eDiscovery Division Director, Office of Mission Support, Office of Enterprise Information Programs, 1301 Constitution Ave. NW, Washington, DC 20001; *EDD_Director@epa.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 11315 and 44 U.S.C. 3506.

PURPOSE(S) OF THE SYSTEM:

To support the document identification and collection processes for eDiscovery, Freedom of Information Act requests and other formal information requests.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

Categories of individuals covered by this system include: (1) All persons subject to a litigation hold due to a ''reasonable anticipation of litigation'' as determined by EPA; (2) all persons deemed a participant of past or present litigation, investigation or arbitration where EPA is involved, including civil and criminal enforcement cases and defensive litigation; and (3) individuals impacted by Freedom of Information Act (FOIA) requests, litigation or other cases in EPA.

A wide variety of individuals are covered by the system, including individuals who correspond with EPA; provide information to EPA that is subject to discovery, a FOIA request or other formal information request; or are the subject of litigation with EPA; individuals who file complaints or petitions with EPA; and individuals involved in matters with EPA as either plaintiffs or defendants in both civil and criminal matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

eDiscovery Litigation Hold Files. The litigation hold files contain the names and email addresses of EPA employees and EPA contractors, interns, or grantees who have been provided EPA email addresses and who have been identified as custodians of information that needs to be preserved in the anticipation of litigation. The records in the system will include these individuals' names and EPA email addresses which are entered into the system by designated EPA employees responsible for the administration of litigation holds. Information in the system includes litigation hold notices and answers to certification questions. Reports may be generated from the system that identify whether an individual is designated as a custodian of hold-responsive information, as well as reports containing the information received from individuals in response to questions asked through the litigation hold system.

eDiscovery Case Tracking Files. The case tracking files contain information about the cases created in response to a litigation, investigation, FOIA matter or other formal information request. Case tracking files may contain the names, phone numbers, organizations, and email addresses of EPA employees and

EPA contractors, interns, or grantees who have been identified as custodians in a case or as points of contact for managing the case. Information in the case tracking files may include the location of the information to be searched, search terms and case notes entered into the system by designated EPA employees or contractors responsible for operating EPA's eDiscovery Enterprise Tool Suite.

eDiscovery Collection Files. The collection files contain information potentially responsive to a litigation, investigation, FOIA matter or other formal information request. The Tool Suite may capture many types of personally identifiable information depending on where that information is stored, including an individual's name; work address and telephone number; home address and telephone number; email addresses; vehicle information; names of individuals associated with a FOIA request or litigation hold; or other related information. The collection files contain all data collected by the tools using the search criteria and may contain, but not be limited to, correspondence (*e.g.,* case coordination reports; memoranda and other records of communication, including electronic communication over email systems or instant messaging among other EPA employees and/or personnel of other federal agencies and outside parties and attachments to those messages or communications); local/shared drive data; information collected or compiled from EPA database systems; spreadsheets of data collections often including personally identifiable information or law enforcement data used to track the process of investigations or focus investigative priorities; records relating to litigation by or against the United States government; records relating to requests for EPA records other than requests under the FOIA and the Privacy Act of 1974; legal documents including complaints, summaries, affidavits, litigation reports, motions, subpoenas and any other court filing or administrative filing, or other related litigation documents; documentary evidence; supporting documents related to the legal and programmatic issues of a case; transcripts of interviews; regulatory history (*i.e.,* permits and reports generated as a result of normal program activity); administrative record material and comments on administrative records; technical support (reports generated to test search criteria); investigative notes; reports requesting permission and use; transcripts of tapes; records checks (personal history, police information, fingerprint cards, photographs); property reports; property obtained and retained by an examiner including documents, personal property and documentary or other evidence; employment records and information related to employment matters; claims and records regarding discrimination, including employment and sex discrimination; personnel matters; contracts and information relating to contracts; manifests and other related investigative information.

RECORD SOURCE CATEGORIES:

EPA employees; employees of federal contractors; employees of other federal agencies and of state, local, tribal and foreign agencies; witnesses; informants; public source materials; and other persons who may have information relevant to the search criteria.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system:

A. Disclosure for Law Enforcement Purposes: Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

C. Disclosure to Requesting Agency: Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget: Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices: Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice: Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;

2. Any employee of the Agency in his or her official capacity;

3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or

4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components,

Is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives: Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others: Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals: Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint,

claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

K. Disclosure in Connection With Litigation: Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

The two routine uses below (L and M) are required by OMB Memorandum M–17–12.

L. Disclosure to Persons or Entities in Response to an Actual or Suspected Breach of Personally Identifiable Information: To appropriate agencies, entities, and persons when (1) EPA suspects or has confirmed that there has been a breach of the system of records; (2) EPA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, EPA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with EPA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to Assist Another Agency in Its Efforts to Respond to a Breach of Personally Identifiable Information: To another Federal agency or Federal entity, when EPA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in the system are stored in database applications running on computer servers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Litigation hold and case tracking files are assigned a case file control number or case name. Information collected from individuals pertaining to particular cases may be retrieved by name of individuals, email addresses, and other unique identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records stored in the system are subject to records schedules 1012 and 0089.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Role-based access controls limit a user's access to the information in the system. Users are provided access to information in the system based on their need to know. Individuals working on a particular matter will be given access to the information related to that matter. The eDiscovery Enterprise Tool Suite is a password protected system requiring all users log in to access the information in the system. The system times out after a period of latency ensuring a user re-authenticates their session with a username and password. The system also maintains a user log that identifies and records persons who access and use the system. Users of EPA systems are required to complete security and privacy training on an annual basis to ensure continued access to the system. All records are maintained in secure areas and buildings with physical access controls.

RECORD ACCESS PROCEDURES:

Request for access must be made in accordance with the procedures described in EPA's Privacy Act regulations at 40 CFR part 16. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURES:

Individuals who wish to be informed whether a Privacy Act system of records maintained by EPA contains any record pertaining to them, should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or by email at: *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

For those records within the system collected and maintained pursuant to the Federal Rules of Civil Procedure (FRCP) and/or for the purpose of civil discovery, action or proceeding, 5 U.S.C. 552a(d)(5) will apply, stating that ''nothing in this [Act] shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.'' In addition, pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H) and (f)(2) through (5). Finally, pursuant to 5 U.S.C. 552a(j)(2), when records are contained in this system related to a criminal enforcement proceeding, this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f)(2) through (f)(5) and (g).

HISTORY:

83 FR 35637 (July 27, 2018).

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–27253 Filed 12–15–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2021–0348; FRL–8419–02–OLEM]

Modernizing Public Notice for RCRA Hazardous Waste Permitting and Other Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice and inviting public comment on allowing modern electronic alternatives for public notification in implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA). Specifically, this notice communicates the EPA's

interpretation that the RCRA and EPA regulatory provisions that require newspaper notice for certain actions (*e.g.,* permit issuance) can be satisfied by notice in qualifying online newspapers, as well as print newspapers. The EPA is also requesting comment regarding whether online mechanisms that might not typically be viewed as newspapers, such as bulletins or newsletters published online by state environmental agencies, could also satisfy these requirements. This notice further explains the EPA's view that the EPA in appropriate cases can authorize state regulations that provide for equivalent notice mechanisms other than newspaper publication for actions other than permit issuance (permit modifications for example). Finally, this notice requests comment on whether EPA should amend its regulations to allow for more flexibility in providing notice of permit actions and other RCRA actions.

DATES: Comments must be received on or before February 14, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2021–0348, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this notice. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/,* as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT:

Information on today's notice: Tab Sommer, Program Implementation and Information Division, Office of Resource Conservation and Recovery (Mail Code: 5303T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0363; email address: *sommer.tab@epa.gov.*

Information on public participation in general: Toshia King, Program Implementation and Information Division, Office of Resource Conservation and Recovery (Mail Code: 5303T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0468; email address: *king.toshia@epa.gov.*

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II. Public Participation

A. Docket

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2021–0348. All documents in the docket are listed in the *https://www.regulations.gov* index. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or in hard copy at the EPA Docket Center. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

B. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2021–0348, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Due to public health concerns related to COVID–19, the EPA Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

C. Submitting CBI

Do not submit information that you consider to be CBI electronically through *https://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: ORCR Document Control Officer, Mail Code 5305T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; Attn: Docket ID No. EPA–HQ–OLEM–2021–0348. 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. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in Title 40 of the Code of Federal Regulations Part 2.

III. General Information

A. Does this action apply to me?

Entities potentially affected by this notice include states and territories authorized by the EPA to implement the RCRA Subtitle C hazardous waste program, and the EPA Regions that directly implement the RCRA hazardous waste program. Other potentially affected entities include owners and operators of RCRA hazardous waste facilities that are seeking permit or other actions under RCRA, as well as members of the general public who have an interest in RCRA public participation (particularly for the RCRA hazardous waste permitting process).

B. Purpose

The EPA is providing notice and inviting public comment on allowing modern electronic alternatives for public notice of the intent to issue hazardous waste permits and other actions. The discussion in this notice focuses on the statutory and regulatory requirements for newspaper notice of permitting actions. However, the interpretations EPA provides and invites comment on in this notice apply to all the RCRA Subtitle C hazardous waste regulatory provisions that require newspaper notice.

First, this notice communicates the EPA's intention to consider qualifying online newspapers as satisfying the public notice requirements under RCRA section 7004(b)(2), 42 U.S.C. 6974(b)(2). That section of the RCRA statute states ''before the issuing of a permit . . . for the treatment, storage, or disposal of hazardous wastes . . . the Administrator shall cause to be published in major local newspaper of general circulation . . . .'' Specifically, the EPA interprets the phrase ''major local newspaper of general circulation'' in that section as including qualifying online newspapers. Thus, notice in such newspapers can satisfy the statutory requirement to provide public notice of an ''agency's intention to issue . . . a permit'' for a RCRA hazardous waste treatment, storage or disposal facility, so long as the newspapers are ''major,'' ''local,'' and ''of general circulation.'' Notice in such newspapers can also satisfy the corresponding EPA regulatory requirements. The main RCRA newspaper public notice regulatory requirement is at § 124.10(c)(2)(ii) of Title 40 of the Code of Federal Regulations (CFR); additional RCRA permitting and other RCRA hazardous waste regulations also require various forms of newspaper notification. The EPA plans to operate under this interpretation; however, the EPA welcomes comment on it and may either affirm the interpretation or revise it following review of any comments. Authorized states with similar newspaper notice regulations would be able to implement an online newspaper interpretation similar to EPA's without seeking authorization if no state regulatory changes are made; states would have this ability with respect this to notice for permit issuance (*i.e.,* initial permit and permit renewals) and other actions (*e.g.,* permit modifications).

Second, this notice requests comment on whether online mechanisms that might not typically be viewed as ''newspapers,'' such as bulletins or newsletters published online by state (or EPA) environmental agency, could also satisfy RCRA section 7004(b)(2)'s public notice requirement and regulatory newspaper notice requirements.

Third, this notice explains the EPA's view that, for actions other than permit issuance [1] (permit modifications for example), which are not governed by section 7004(b)(2), the EPA in appropriate cases can authorize state regulations that provide for notice mechanisms other than newspaper publication, even where EPA regulations require the agency, the permittee, or state, to provide notice of such actions through newspaper publication, as long as the notice is equivalent to and no less stringent than the federal program as discussed in Section VII.

Fourth, the EPA is requesting comment on whether it should modify its RCRA hazardous waste regulations that require newspaper notice, in order to allow the Agency more flexibility for notices that are not governed by section 7004(b)(2) (permit modifications for example) and to codify the flexibility discussed in Section VI for permit issuance notice under section 7004(b)(2) (for use of online newspapers and possibly agency newsletters and bulletins).

For the reasons explained in this notice, the EPA believes both RCRA section 7004(b)(2) and EPA regulations (for permit issuance and other permit actions) can and should be interpreted broadly to effectuate the underlying purpose of public notice of RCRA Subtitle C permit actions, which is to inform the public in the most effective, efficient way of permit actions in their communities. More broadly, the purpose of all the public notice requirements in the Subtitle C regulations is to inform the public of actions and activities related to the Subtitle C program within their states and communities. The EPA intends to allow for the full range of flexibility afforded by RCRA and EPA regulations to satisfy public notice requirements; permitting agencies and other environmental agencies implementing RCRA have discretion to choose which public notice mechanisms would be most effective based on the characteristics and needs of a specific community or circumstance. This effort does not narrow or limit any existing flexibilities for notices under Subtitle C.

In exercising this flexibility, recipients of federal financial assistance, including from EPA, must comply with federal civil rights laws, including Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Title VI prohibits discrimination on the basis race color or national

[1] All uses of the term ''permit issuance'' in this notice includes the issuance of RCRA permit renewals in addition to the issuance of initial permits.

origin, including limited English proficiency, and recipients have an affirmative obligation to ensure individuals with limited English proficiency have a meaningful opportunity to participate in permit and other decision making and public involvement processes, including through the translation of vital documents and the provision of qualified interpreter services. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability, and recipients must provide persons with disabilities needed reasonable accommodations and appropriate auxiliary aids and services where necessary so they may effectively participate in permit actions and other public participation processes.[2]

While the focus of this **Federal Register** notice is on modern online (electronic) newspaper notice options, EPA notes for context that authorized state programs and the EPA are currently making use of electronic alternatives to in-person hearings,[3] in-person meetings,[4] and postal mail[5] to meet additional public notice requirements for some RCRA hazardous waste permitting actions.

C. Authority

This document is issued under the authority of sections 2002, 3005, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6912, 6925, 6974).

IV. Statutory and Regulatory Requirements Related to Public Notice for RCRA Permits

RCRA permits are required for the treatment, storage, or disposal of hazardous waste (*see* 42 U.S.C. 6925). These permits include facility-specific requirements, based on the applicable RCRA regulations, for the management of hazardous wastes and are issued by authorized states or EPA regional offices. When ''permitting agencies'' are referenced in this notice, we are referring to state programs that are authorized to implement the RCRA permitting regulations in lieu of EPA, or EPA regional offices. As discussed further below, permitting agencies are required to publish notices as part of the permitting process. This notice also sometimes refers to ''state environmental agencies'' when speaking about state RCRA environmental programs acting in capacities broader than permitting.

RCRA section 7004(b)(2), 42 U.S.C. 6974(b)(2), states: ''Before the issuing of a permit to any person with respect to any facility for the treatment, storage, or disposal of hazardous wastes under section 3005, the Administrator shall—(A) cause to be published in major local newspapers of general circulation and broadcast over local radio stations notice of the agency's intention to issue such permit. . . .'' This section further provides that ''no state program which provides for the issuance of permits referred to in this paragraph may be authorized by the Administrator under section 6926 of this title unless such program provides for the notice. . . required by the paragraph.'' Thus, this requirement governs permitting by both EPA and authorized states. The EPA's main regulation implementing this provision requires ''publication of a notice in a daily or weekly major local newspaper of general circulation.'' While this regulation implements RCRA section 7004(b)(2) by requiring newspaper notice of the intent to issue a permit, it also covers a range of other permitting actions which are not governed by that section.

Section 7004(b)(2) applies when EPA or authorized states are ''issuing'' permits. EPA interprets this section to apply to permit renewals as well as initial issuance of permits, since each RCRA permit has an expiration date, which by statute cannot extend beyond ten years from the date of issuance (RCRA section 3005(c)(3)). The renewal of a RCRA permit is, in effect, the issuance of a RCRA permit, because it replaces the previous permit and establishes a new permit term. However, the EPA does not view other permit actions—for example, a permit modification—as the issuance of permits, because they do not replace the existing permit and do not establish another permit term. Other sections of RCRA distinguish between the issuance and modification of permits (*see, e.g.,* RCRA section 3005(c)(3)). Permit modification notification by the agency and the permittee is just one example of permitting actions not governed by section 7004(b)(2) for which the regulation requires newspaper public notice. See Section VII for details.

As explained further in Section VII, when EPA is the implementing agency, it is subject to the requirements specified in the regulatory text,[6] but authorized states have flexibility to adopt and seek authorization for other public notice approaches that are equivalent to and at least as stringent as the EPA regulatory requirements, when undertaking actions other than permit issuance (permit modifications for example).

V. Public Notice Availability, Efficiency, and Effectiveness

A. Community-Specific Public Participation Planning

The EPA would like to emphasize that the RCRA program is committed to the importance of adapting public notice methods to the local community and doing appropriate research and outreach to determine what combination of methods will work best for a given community, including disadvantaged populations within the community, persons with limited English proficiency, and persons with disabilities. There are two main steps to achieve this according to the 2016 RCRA Public Participation Manual: The first is to assess the community and the second is to develop a public

[2] *See* Title VI, 42 U.S.C. 2000(d) *et seq.;* Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; *Lau* v. *Nichols,* 414 U.S. 563, 568–69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin); 40 CFR 7.30 and 7.35. *See also* U.S. EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004) (available at *https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_lep_guidance_for_epa_recipients_2004.06.25.pdf*); U.S. EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006) (available at *https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf*); U.S. EPA, Procedural Safeguards Checklist for Recipients, at *https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf* (rev. Jan. 2020) (which provides a more detailed explanation of nondiscrimination obligations and best practices); U.S. EPA, Disability Nondiscrimination Plan Sample, at *https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf.* (2017).

[3] EPA Office of General Counsel. *Memorandum: Virtual Public Hearings and Meetings.* 16 April, 2020. Accessed via: *https://www.epa.gov/sites/production/files/2020-04/documents/ogc_virtual_hearing_memo_4-16-2020.pdf.*

EPA. *RCRA Public Participation Manual—Tools for hearings).* Accessed via: *https://www.epa.gov/sites/default/files/2020-04/documents/public_hearings-rcra_tools-508_compliant_12-20-191.pdf.*

[4] EPA. *RCRA Public Participation Manual—Tools for meetings).* Accessed via: *https://www.epa.gov/sites/default/files/2020-04/documents/public_meetings-rcra_tools-508_compliant_12-20-191.pdf.*

[5] EPA. *RCRA Public Participation Manual—Tools for mailings.* Accessed via: *https://www.epa.gov/sites/production/files/2021-04/documents/mailing_lists-rcra_tools-508_compliant_12-20-19_updated.pdf.*

[6] For example, when EPA is the permitting authority, it must give newspaper notice for agency-initiated permit modifications per the regulatory requirements (§§ 270.41, 124.5, and 124.10(c)(2)(ii)).

participation plan.[7] Conducting these recommended steps will increase the degree of meaningful community engagement when it comes to obtaining public input for upcoming EPA RCRA decision-making at the facilities that the communities host. Such decisions include permit issuance, but also include other actions outlined in the manual.

Assessing the Community. According to the approach described in the 2016 RCRA Public Participation Manual, before designing a public participation plan, the permitting agency would perform a community assessment and begin by determining the level of community interest in the action. Each community is different and has its own way of spreading information to interested people. Key institutions and groups also vary from place to place, as do socioeconomic status, limited English proficiency culture and traditions, political and religious activity, disabilities, and values. Understanding these community characteristics is essential to facilitating successful public participation. Community assessments should help agencies, facility owners/operators, and public interest groups identify public participation activities that are useful and meaningful for particular communities. Assessments can include mapping the area around the facility and identifying off-site impacts.

Public Participation Plan Development. After identifying the major community groups, concerns and relevant community characteristics during the community assessment, the agency drafts a public participation plan to address the following components of a public participation plan framework:

- Identifying and establishing effective methods for communicating with community members (*e.g.,* mailing lists, newsletters, interviews, local broadcast television station news programs, websites, public notice signs at the facility, public conference calls, online social media platforms presence, and other information sources).
- Communicating with the media and elected officials.
- Planning and conducting public participation events.
- Coordinating public participation with other stakeholder groups and community events.
- Preparing and distributing additional resources such as fact sheets, public notices, news releases, meeting handouts, presentations and online or social media updates.

With respect to RCRA permitting, there are both public notice activities required by the statute and regulations, and public notice activities that are optional and can be tailored to reach a specific community. The list below includes examples of required and optional methods (dependent on the specific RCRA actions being taken): [8]

Required for the applicant in the regulations:

- Newspaper;
- Radio broadcast;
- Public roadway signage at the facility location or entrances to public roadway;
- Information repository; and
- Pre-application meetings and meeting documentation.

Required for the agency in the regulations:

- Newspaper;
- Mailing list;
- Fact sheets/statements of basis;
- Meetings/hearings;
- Public comment (including response to comment); and
- Notice of decision.

Other optional methods of public engagement: [9]

- Community interviews;
- Community advisory groups;
- Telephone calls including public conference calls;
- Local public television (broadcast and cable) seeking local news content;
- Informal meetings with stakeholders;
- Focus groups;
- Facility tours and observation decks;
- On-Scene Information Offices;
- Briefings with key stakeholders;
- Project newsletters and reports;
- Presentations to concerned community groups (and others);
- Exhibits and information tables; and
- Workshops.

In addition to the public participation requirements identified in RCRA and EPA regulations, recipients of federal financial assistance, including from EPA, must comply with federal civil rights laws. These civil rights laws require recipients to ensure individuals with limited English proficiency have a meaningful opportunity to participate in permit and other decision making and public involvement processes, including through the translation of vital documents and the provision of qualified interpreter services. The federal civil rights laws also require that recipients provide persons with disabilities needed reasonable accommodations and appropriate auxiliary aids and services where necessary so they may effectively participate in permit actions and other public participation processes. This includes an obligation, when in-person hearings are held, to choose facilities in which to hold permit hearings and other public participation events, that are accessible to persons with physical disabilities.

Communities have different needs. Some communities have a lack of newspapers, and most of the community members consume news through the internet (as described in Section V.B); while other communities may have limited internet access. According to a Pew Research Center survey of U.S. adults conducted from Jan. 25 to Feb. 8, 2021,[10] [11] ''7% of U.S. adults say they do not use the internet'' and it also states that ''rural residents go online less frequently than their urban counterparts'' and that ''eight-in-ten adults who live in rural communities say they use the internet on at least a daily basis, compared with roughly nine-in-ten of those in urban areas (88%).'' While people tend to use the internet on multiple devices, this is less common with rural residents according to the Pew Research Survey, and they may need to rely on the internet connection at home. ''Roughly seven-in-ten rural Americans (72%) say they have a broadband internet connection at home.'' In communities with widely used local newspapers and limited internet access, it is expected that the community assessment process listed above would result in a development of a public participation plan that focuses on the use of the local print newspaper (in addition to other methods, as needed).

In addition, several tribal members raised to the EPA that some households

[7] EPA Office of Land and Emergency Management. *Resource Conservation and Recovery Act Public Participation Manual.* 2016. 530–R–16–013, Chapter 5. Accessed via: *https://www.epa.gov/sites/default/files/2019-09/documents/final_rcra_ppm_updated.pdf.*

[8] EPA Office of Land and Emergency Management. *Resource Conservation and Recovery Act Public Participation Manual.* 2016. Exhibit 5–1 and 5–2. Accessed via: *https://www.epa.gov/sites/default/files/2019-09/documents/final_rcra_ppm_updated.pdf.*

[9] EPA Office of Land and Emergency Management. *Resource Conservation and Recovery Act Public Participation Manual.* 2016. Exhibit 5–3. Accessed via: *https://www.epa.gov/sites/default/files/2019-09/documents/final_rcra_ppm_updated.pdf.*

[10] Perrin, A. and Atske, S. *7% of Americans don't use the internet. Who are they?* Pew Research Center, 2021. Accessed via: *https://www.pewresearch.org/fact-tank/2021/04/02/7-of-americans-dont-use-the-internet-who-are-they/.*

[11] Vogels, E.A. *Some digital divides persist between rural, urban and suburban America.* Pew Research Center, 2021. Accessed via: *https://www.pewresearch.org/fact-tank/2021/08/19/some-digital-divides-persist-between-rural-urban-and-suburban-america.*

on tribal lands do not have access to the internet and rely on other methods like local television and radio.[12] According to the Federal Communications Commission (FCC), 628,000 tribal households—roughly 36% of Tribal households nationwide—lack access to standard broadband (no providers). The same FCC report stated that 8% of non-tribal households lacked access to standard broadband providers.[13] A study by the American Indian Policy Institute in 2019 found nearly one in five reservation residents has no internet at home.[14]

These statistics underscore the importance of assessing the community and planning public participation based on community characteristics and needs.

B. Lack of Available Print Newspapers in Some Communities

Many localities no longer have newspapers that might have traditionally been considered ''local;'' there has been a trend in newspapers ceasing publication; and there has been a trend in circulation reductions. These three trends are described below.

• *Communities with no local newspaper.*—According to a study in 2018 by the University of North Carolina Hussman School of Media and Journalism (UNC Hussman), nationally 171 counties with 3.2 million residents had no local newspaper.[15] The counties without a newspaper have now increased to more than 200 according to their updated report (2020 UNC Hussman report [16]).

• *Recent trend of newspaper reductions.*—The 2020 UNC Hussman report also concluded that, in the past 15 years, the U.S. has lost one-fourth (2,100) of its newspapers ''leaving at least 1,800 communities that had a local news outlet in 2004 without any at the beginning of 2020.'' Most of these losses were sustained in economically struggling communities; however, some were also in larger cities with more affluential readership. UNC Hussman also found that the economic fallout from the COVID–19 pandemic has dramatically increased the decline—with at least 30 newspapers that closed or merged in April and May of 2020, and dozens of newspapers that switched to online-only delivery of news.[17]

• *Circulation reduction trends.*—The same 2020 UNC Hussman report stated that total newspaper circulation decreased by 55 million between 2004 and the end of 2019. An estimated ''half of newspaper readers have vanished over the past 15 years.'' Between 2004 and 2019, total weekday circulation—including both dailies and weeklies—declined 45 percent, from more than 122 million to 68 million. Daily papers lost 22 million print readers. Only 39 dailies had a circulation of more than 100,000 in 2019, compared with 104 in 2004. Most of the drop in daily circulation resulted from decisions by owners of dailies to pare back distribution of the print paper, especially in outlying areas. The dramatic circulation drop occurred despite new rules adopted by the industry after 2004 that allowed newspapers to count print and online readership that had previously been excluded (this is likely to undercount online readership since ''circulation'' does not include free online readership).[18] [19]

State permitting agencies have also raised these trends in various meetings over the years with EPA, reporting that print newspapers are not available in all communities. A few recent examples have been shared with the EPA. An example illustrating the ineffectiveness of newspaper notification in some scenarios is the Holcim facility in Artesia, Mississippi. EPA Region 4 issued a renewal permit on September 21, 2017, to operate a RCRA hazardous waste fuel blending facility. Because there was no local paper with readership in the community near the facility, EPA issued public notice in a more regional newspaper out of Starkville, Mississippi, over 20 miles from Holcim's facility. The region also posted the draft permit on their website and took comments for the duration of the comment period and the region found it was more effective in reaching the local community. A more unusual example involves a RCRA corrective action permit in Johnston Atoll issued by EPA Region 9 on December 21, 2018. The print newspaper closest to Johnson Atoll is the Honolulu Star-Advertiser which is based in Hawaii and is published 720 nautical miles from the facility. The EPA used the Honolulu Star-Advertiser publication to satisfy the statutory and regulatory newspaper notice requirement, but the notice was relatively expensive and no inquiries regarding the permit originated from the newspaper notice, but rather were initiated by the public reviewing the EPA website and using that contact information. In contrast to these, notification for the Chemical Waste Management's Kettleman Hills facility (a RCRA hazardous waste and Toxic Substances Control Act (TSCA) landfill) in Kings County, California demonstrates what notification under authorities with greater flexibility can look like. The Kettleman Hills landfill is a facility with a community whose closest print newspaper is roughly 30 miles away in Hanford and is published in English only. The nearest community to the facility, in Kettleman City, is primarily Spanish speaking. California's Department of Toxic Substances Control (DTSC) handles the facility's RCRA permitting notices and has specifically assessed the community needs and identified effective communication methods in addition to the required newspaper notice. EPA in its most recent notice for the Kettleman Hills facility, for approval to dispose of polychlorinated biphenyls under TSCA, elected to apply some enhanced communication methods. The notice was published in the Hanford Sentinel, but the EPA region also provided notice via direct mail and email, web page postings, and posters in the local community in both English and Spanish. These mechanisms were considered more effective than the newspaper publication.

[12] The EPA provided an opportunity for tribes to consult with EPA on this **Federal Register** Notice and held an informational webinar for tribes in October 2021. More on the consultation process can be found at: *https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes.*

[13] Federal Communications Commission. *Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018.* Submission to the Senate Committee on Commerce, Science, and Transportation House of Representatives Committee on Energy and Commerce, 2019. Figure 2. Accessed via: *https://www.fcc.gov/document/report-broadband-deployment-indian-country.*

[14] Schapiro, A. *Coronavirus crisis threatens internet opportunity for Native Americans.* Reuters. 2020. Accessed via: *https://www.reuters.com/article/us-health-coronavirus-usa-rights-trfn/coronavirus-crisis-threatens-internet-opportunity-for-native-americans-idUSKCN24T06B.*

[15] Abernathy, P. *The Expanding News Desert.* University of North Carolina Press. 2018. Accessed via: *https://www.cislm.org/wp-content/uploads/2018/10/The-Expanding-News-Desert-10_14-Web.pdf.*

[16] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[17] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[18] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[19] Payment for online access is a prerequisite for including those digital numbers in the industry-accepted audit of circulation conducted by the Alliance for Audited Media (AAM).

In light of these trends described above, some state permitting agencies find that notice in traditional print newspapers is ineffective. They have supported modernizing the public notice requirements under their authorized programs and have raised the issue to the EPA. For example, two states (Alabama and Georgia) identified this issue for consideration under the 2017 Executive Order (E.O.) 13777 ''Enforcing the Regulatory Reform Agenda.'' [20] Both states would prefer that EPA amend its regulations to increase notice flexibility. In comment to this E.O., Georgia Department of Natural Resources [21] stated that ''depending on the location of the facility, publication in the major local newspaper with circulation in that area can be very expensive, especially if it is in a major metropolitan area . . . As more newspapers go out of business, it may not be possible to find an appropriate newspaper in which to publish the notice.'' Also, in comment to this E.O., the Alabama Department of Environmental Management's letter [22] of May 12, 2017, regarded the newspaper requirement as archaic, expensive, and ineffective. The letter stated: ''These archaic rules, originally written in the 1970's, are completely obsolete and ineffective. First, as print news media has evolved over time, the availability of daily, and even weekly newspapers, is extremely limited. Moreover, many times, outside the control of the regulatory agency, permit notices are published in sections of the media that have very limited readership . . . And as the availability and effectiveness of these outlets has declined, the cost associated with these notice methods have increased.''

While the large majority of Americans get their news from digital devices,[23] some newspapers have gone to having print newspapers on a more limited basis and publishing ''e-editions'' on the other days.[24] The permitting agencies have mentioned that publication of notices in printed newspapers can often delay the permitting process, based on available space for the publication in the print newspaper and based on the publication schedule (if biweekly, for example).

Often the online and print versions will both be available, but in some cases, the community may only have access to online newspapers. In general, online-only newspapers are increasingly common but are not filling the void of the overall decreasing local newspaper availability.[25]

C. Relative Benefits of Online Notice Vehicles

Other EPA permitting programs have finalized changes to their public notice regulations to use a public website notice as a replacement to newspaper notice. The general benefits of internet-based notices used to support these regulatory changes support the interpretations of RCRA and its implementing regulations advanced in today's notice. Unlike RCRA, the statutory provisions governing these other programs do not require newspaper notice, and the regulatory changes under these programs have dispensed with the previous requirements to provide newspaper notice. EPA does not have that flexibility for notices of permit issuance under RCRA.

The EPA's Office of Air rulemaking for Prevention of Significant Deterioration (PSD) permits (81 FR 71613, October 18, 2016) and EPA Office of Water's rulemaking for National Pollutant Discharge Elimination System (NPDES) permits (84 FR 3324, February 12, 2019) describe the basis for the regulatory change from newspaper notice to internet postings to satisfy public notice requirements.[26] The decision to replace the newspaper requirement was supported by data and rationale presented in the preambles of those rulemakings.[27] The replacement of newspaper notice in those permitting program regulations support the effort for flexibility with RCRA newspaper notice for permitting actions.

The PSD rule preamble (81 FR 71613, page 71622) stated that ''the EPA believes that in those instances when internet posting is the sole notice provided, it will be fully adequate to meet the purpose for which notice is intended—to provide, to as many of the public at large as can reasonably be expected to be interested, access to important information regarding draft permits. In addition, internet publishing provides the potential to reach unknown interested parties.'' The preamble went on to say that residents in a local jurisdiction might not subscribe to a local paper or happen to see a one-day posting in the legal notices section of the newspaper. At any given time, residents may be out of town and/or relying on the internet for news. The fact that ''e-notices'' (a term used in the PSD program) will remain on the internet for the duration of the public comment period vastly increases the likelihood that interested parties will receive notice about draft permits. In addition, interested parties would not have the burden of traveling to a physical location to review a copy of the draft permit if a link to the document is also posted on the internet notice.[28] The preamble also mentioned that ''Given the widespread use of the internet in our mobile society, the EPA believes that e-notice's reach will improve the

[20] 82 FR 17793, Also see *https://www.federalregister.gov/documents/2017/02/03/2017-02451/reducing-regulation-and-controlling-regulatory-costs.*

[21] Dunn, R.E. *Georgia Environmental Protection Division's Comments on EPA's Proposed Evaluation of Existing Regulations.* Letter for Docket EPA–HQ–OA–2017–0190. 2017.

[22] Davis, P.D. *Recommendation for Consideration under Executive Order 13777 on 'Enforcing the Regulatory Reform Agenda'.* Letter for Docket EPA–HQ–OA–2017–0190. 2017.

[23] Shearer, E. and Mitchell, A. *News Use Across Social Media Platforms in 2020.* Pew Research Center. 2021. Accessed via: *https://www.pewresearch.org/fact-tank/2021/01/12/more-than-eight-in-ten-americans-get-news-from-digital-devices/ft_2021-01-12_socialmedia_01/.*

[24] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[25] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[26] The EPA RCRA, PSD and NPDES permitting programs have regulatory requirements under ''Public notice of permit actions and public comment period'' at § 124.10. The PSD notice at § 124.10(c)(2)(iii)(B) now requires notification to the public for the duration of the public comment period, on a ''public website'' identified by the Director (in lieu of the requirement for publication of a notice in a daily or weekly newspaper in § 124.10(c)(2)(i)). The information includes the following: A notice of availability of the draft permit for public comment (or the denial of the permit application), the draft permit, information on how to access the administrative record, and information on how to request and/or attend a public hearing on the draft permit. The NPDES notice at § 124.10(c)(2)(iv) now states that, for NPDES major permits and NPDES general permits, the Director may publish all notices of activities (described in § 124.10(a)(1)) to the permitting authority's public website in lieu of the requirement for publication of a notice in a daily or weekly newspaper (as described in § 124.10(c)(2)(i)). If the Director selects this option for a draft permit, they will include the public notice contents in § 124.10(d) and post the draft permit and fact sheet on the website for the duration of the public comment period.

[27] The data and analysis for justification of the regulation change to internet-based notices for the PSD and NPDES programs in 2016 and 2019 were based on information that may now be superseded by newer studies but was sufficient to make their findings. The trend with newer studies typically shows an increasing trend toward to internet usage and decreasing print newspaper availability. Regardless, the older data and analysis that provided support for the PSD and NPDES decisions also inform the interpretation for RCRA.

[28] Links to agency websites and permit documentation can be included in the print newspaper notices, but it is easier to implement in online notices.

public notice process and yield positive results.''

Online newspapers can reach a broader audience than print newspapers since notices published online align with the trend on how many Americans are consuming news. Internet use among the public in the United States has expanded tremendously and continues to penetrate all demographic groups.[29] Moreover, online news is often (but not always) [30] cheaper and easier for readers to access than subscriptions for traditional printed newspapers. Online readership for most daily newspapers exceeds print readership.[31] An advantage of online newspapers is that they can be read from mobile devices, enabling permitting agencies to reach individuals wherever they are. Notices in online newspapers can be translated into different languages by widely available software and can be adapted for people with disabilities (for example, screen readers for the visually impaired). The EPA is aware that in some cases, print newspapers can address some of the issues listed above (publishing multilingual papers for example), but the EPA believes that on average, online newspapers address these issues to a larger extent.

The vast majority of people in the United States have internet access. When Pew Research Center began systematically tracking Americans' internet usage in early 2000, about half of all adults were already online. Today, 93% of American adults use the internet and roughly three-quarters of American adults have broadband internet service at home. The share of Americans that own a smartphone is now 85% (as of February 8, 2021), up from just 35% in Pew Research Center's first survey of smartphone ownership conducted in 2011.[32] EPA is aware that concerns have been raised for those who do not have internet access. EPA acknowledges that the portion of the population that does not have access tends to be rural and low-income people (see Section V.A). Furthermore, internet access does not always mean consistent access. In this regard, EPA reiterates that today's notice does not require online notice in lieu of notice in a printed newspaper; rather, it interprets RCRA and EPA's regulations as allowing for notice in qualifying online newspapers as well as print newspapers and requests comment on also allowing for notice in qualifying agency online bulletins and newsletters. It is important that agencies know and understand the communities they serve so that the appropriate mix of services for providing effective notice can be considered, including the community's access to internet services. In addition, while some communities may have limited internet access, those communities may also not be served by traditional local print newspapers. And, even if they are, residents might not routinely consult those papers for information on things like permit notices. EPA believes it makes sense to afford permitting agencies the maximum flexibility to use notice vehicles that will best serve the local community.[33]

The following Act and Executive Order that the PSD rule (81 FR 71613, page 71621) cited highlight the broader direction within the Federal Government to move towards online and electronic vehicles in government operations and toward efforts to increase efficiency. These authorities support today's notice.

- The E-Government Act of 2002 [34] generally requires and encourages federal agencies to better manage and promote internet and information technology use to bring about improvements in government operations and customer service. This Act establishes an Office of Electronic Government in the Office of Management and Budget (OMB) and imposes responsibilities on various high-level government officials including heads of federal government agencies. The Act defines ''electronic Government'' as ''the use by the Government of Web-based internet applications and other information technologies, combined with processes that implement these technologies, to: (A) Enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or (B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation.'' 44 U.S.C. 3601(3). While the Act does not mandate internet publication of the EPA's or other agencies' public notices, online publication of notices would, in many communities, advance the goals of enhancing the access to government information by the public, using the internet to improve the effectiveness and efficiency of government operations (in this case, the RCRA permitting process), and providing for higher quality service for the affected communities.
- Executive Order 13576 (June 13, 2011), Delivering an Efficient, Effective, and Accountable Government,[35] encourages federal agencies to cut waste, streamline structure and operations, and reinforce performance and management reform. The objectives of the E.O. include ''reducing wasteful or ineffective programs, policies, and procedures.'' The EPA maintains that increased effectiveness in public notice would support these objectives.

Some state permitting agencies find the newspaper notice an expensive form of notice in general relative to its effectiveness. The costs for public notices are entirely dependent upon the newspaper and its circulation. Basically, the rates tend to be highest for daily newspapers in large metropolitan areas and lowest in small rural towns. In 2015, the EPA Office of Superfund Remediation and Technology Innovation (OSRTI) conducted a study on newspaper notification in the Superfund cleanup process [36] where it concluded that a major local newspaper of general circulation is not always effective in reaching the intended audience and that it is relatively costly. The study found that the rates for publication in daily newspapers in large metropolitan areas vary from $2,800 (Sacramento Bee) to $3,500 (Houston Chronicle). Publication costs for small rural newspapers are significantly less. In general, it costs about $3,000 for ads in large daily newspapers and often less than $100 or free for small rural newspapers according to the research conducted. Also, based on information provided by seven EPA regions for the research, it is estimated that the average cost per public notice was $884 at that time. The print newspaper ads ranged from an average of $352–$1,550 across the different EPA Regions. OSRTI's study also noted that circulation of newspapers is shrinking, so even when

[29] See response to public comments, in the 2016 Office of Air Prevention of Significant Deterioration (PSD) rulemaking at (81 FR 71613).

[30] The EPA is aware, however, that while online sources are often more efficient and less expensive, it is not the case in every situation. For example, some print newspapers are free.

[31] Abernathy, P. *News Deserts and Ghost Newspapers: Will Local News Survive?* University of North Carolina Press. 2020. Accessed via: *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf.*

[32] Pew Research Center. *Internet/Broadband Fact Sheet.* 2021 Accessed via: *https://www.pewresearch.org/internet/fact-sheet/internet-broadband/.*

[33] Notices and other public participation processes must also be implemented consistent with the federal civil rights laws that apply to all recipients of federal financial assistance.

[34] Public Law 107–347, 116 Stat. 2899.

[35] Exec. Order 13576. June 13, 2011.

[36] EPA Office of Superfund Remediation and Technology Innovation. *U.S. EPA Regional Practices/Experiences with Publication of Notices during the Superfund Process.* 2015. Accessed via: *https://downloads.regulations.gov/EPA-HQ-SFUND-2014-0620-0009/content.docx.*

newspapers are available, readership is decreasing on average. The EPA's recommendation in that study was that the community is better served with a strategic approach that uses communication and outreach methods that are best suited to the community and situation. The PSD [37] and NPDES [38] rulemakings (mentioned previously in this section) included a discussion in their preambles on the estimated costs and program savings of amending regulations to use internet-based notice versus newspaper.

The Agency sees all the above reasons as providing a strong case that EPA and authorized states need the flexibility to provide notice of the intent to issue permits—and to take other actions—through vehicles other than print newspapers. EPA believes significant benefits will be realized by recognizing that qualifying online newspapers satisfy the newspaper requirement of RCRA section 7004(b)(2). EPA believes significant additional benefits would be realized if online newsletters or bulletins published by permitting agencies could satisfy the requirement as well (see Section VI.B for the discussion on online newsletters or bulletins).

VI. Clarify Statutory and Regulatory Requirements for Newspaper Notice of RCRA Permitting and Other Actions

A. Online Newspapers That Are Local and of General Circulation Satisfy RCRA and Regulatory Requirements

EPA believes that online newspapers can qualify as ''newspapers'' within the meaning of RCRA section 7004(b)(2) and EPA's regulations. In addition, EPA believes that such newspapers can satisfy the criteria of being ''major,'' ''local,'' and ''of general circulation.''

There is no reason, in EPA's view, that an online publication cannot be considered a newspaper. The term ''online newspaper,'' for the purposes of this document, refers to any electronic or internet-accessible newspaper. While definitions of ''newspaper'' vary, a fairly standard definition is found in the online Cambridge Dictionary: ''a regularly printed document consisting of large sheets of paper that are folded together, or a website, containing news reports, articles, photographs, and advertisements.'' [39] *Dictionary.com* defines newspaper as: ''1. A printed publication issued at regular and usually close intervals, especially daily or weekly, and commonly containing news, comment, features, and advertising. . . . 4. an online version of a newspaper.'' [40] A number of federal and state cases refer to ''online newspapers'' or ''internet newspapers,'' in acknowledgement that such publications are widely referred to and considered to be newspapers, *e.g., Act Now to Stop War* v. *D.C.,* 846 F.3d 391, 401 (D.C. Cir. 2017). The EPA's PSD rulemaking discussed above treats both ''print and digital'' newspapers as newspapers (81 FR 71621). Some well-known, formerly printed newspapers have transitioned to online-only format (*e.g.,* the Seattle Post-Intelligencer), and EPA believes these publications are widely considered and referred to as newspapers. Moreover, some statutes requiring notice in newspapers specify that the newspapers be ''printed,'' whereas RCRA section 7004(b)(2) does not specify ''print'' newspapers. See case discussion in *What constitutes newspaper of* ''*general circulation*'' *within meaning of state statutes requiring publication of official notices and the like in such newspaper,* 24 A.L.R. 4th 822 section 11[a]. In short, EPA believes an online publication that has the kinds of characteristics identified in standard definitions of ''newspaper'' qualifies as a newspaper within the meaning of section 7004(b)(2).

Furthermore, EPA believes an online newspaper can meet the additional section 7004(b)(2) and corresponding regulatory elements. As with the term ''newspaper,'' definitions of ''newspaper of general circulation'' vary. Discussion of the term in a number of judicial cases has been summarized as:

> A newspaper of general circulation is one that circulates among all classes and is not confined to a particular class or calling in the community, and is a term generally applied to a newspaper to which the general public will resort in order to be informed of the news and intelligence of the day, editorial opinion, and advertisements, and thereby to render it probable that the notices or official advertising will be brought to the attention of the general public. A newspaper of ''general circulation'' has also been described as one that contains news of general interest to the community and reaches a diverse readership.[41]

EPA sees no reason that an online newspaper cannot qualify as a newspaper of general circulation. Nor is EPA aware of a reason that an online newspaper cannot qualify as ''major'' and ''local.''

It is not the purpose of this notice to specify the criteria for determining what online (or print) newspapers qualify as major, local, and of general circulation. Rather, this notice conveys EPA's interpretation that a newspaper is not disqualified from meeting those elements simply because it is online.

While this notice does not specify criteria in this regard, it does convey EPA's view that the section 7004(b)(2) terms should be construed broadly in determining whether an online (or print) newspaper qualifies, to meet the intent of the statutory provision. Congress added this section to RCRA so that people who live in the vicinity of a proposed hazardous waste management facility would have notice of the intended issuance of permits and thereby ''have the opportunity to have their opinions heard before a permit to build a hazardous chemical waste site is issued.'' [42] This objective could be frustrated by a narrow reading of the statutory text.

As shown above in Section V, notice methods other than print newspapers are likely to be more effective in the current media environment in many communities, and this reality will only become more pronounced as the public increasingly turns to online news and information sources. While the EPA and authorized states must comply with section 7004(b)(2), the EPA will interpret its text in way that is most likely to effectively provide timely and meaningful notice to citizens potentially impacted by permitted facilities in an increasingly digital world.

Moreover, a narrow reading of the statutory text could make issuance of permits impossible in many communities—a result that Congress surely did not intend and that the statutory language does not compel. EPA and authorized states *must* publish notice of their intention to issue each RCRA Subtitle C permit in a major local newspaper of general circulation. And yet, as shown above, many communities no longer have newspapers that would likely have traditionally considered to be ''local.'' Thus, as a practical matter, section 7004(b)(2) must be interpreted flexibly to ensure that EPA and authorized states can continue to issue permits while providing compliant notice.

EPA's discussion in this section about online newspapers satisfying the requirement for newspaper notice applies to notice for permit actions other than permit issuance, in addition to the agency's notice of permit issuance covered under 7004(b)(2) specified

[37] 81 FR 71613, page 71623.

[38] 84 FR 3324, page 3334.

[39] *See https://dictionary.cambridge.org/us/dictionary/english/newspaper.*

[40] *See https://www.dictionary.com/browse/newspaper.*

[41] *66 C.J.S. Newspapers section 4 (1998).*

[42] Floor Debate on H.R. 3994, February 20, 1980, *A Legislative History of the Solid Waste Disposal Act, as Amended,* S. Prt. 102–35, Vol. 1 at 1082.

above. More broadly, this discussion and interpretation applies to all RCRA regulatory requirements for ''newspaper'' notice. For example, it applies to the requirement that EPA publish notice of its decision to approve revisions to a state's authorized program under RCRA ''in enough of the largest newspapers in the State to attract statewide attention'' per 40 CFR 271.21(b)(3)(i)(B) and (b)(4)(i)(B). Simply put, EPA believes that the term ''newspaper'' is commonly understood to refer to online as well as print newspapers and that the benefits of the flexibility to use online as well as print newspapers apply regardless of the specific purpose of the notice. These interpretations apply to all EPA regulations that require ''newspaper'' notice of RCRA permit actions, of course, whether or not the action is governed by RCRA 7004(b)(2).

The EPA welcomes comment on the interpretation that notice of the intent to issue RCRA permits in online newspapers that are major, local and of general circulation satisfies RCRA section 7004(b)(2) and the corresponding EPA regulatory requirements, and that online newspapers generally qualify as ''newspapers'' under Subtitle C regulations requiring newspaper notice. The EPA intends to operate under this interpretation in the meantime, because it does not believe the interpretation should be controversial and because it does not see a good basis to operate under a more restrictive interpretation. States with similar authorized regulations [43] may also implement an interpretation similar to EPA's without seeking authorization if no state regulatory changes are made. However, EPA will consider any comments received and may either affirm the interpretation or revise it following review of any comments. Also, EPA welcomes comment on whether it should clarify the inclusion of ''online newspapers'' by amending its regulations that require newspaper notice for permit and other actions.

Note that this interpretation does not prohibit authorized states and EPA from publishing notices in print newspapers; rather, this interpretation clarifies the flexibility afforded by the statutory and EPA regulatory text. The EPA encourages permitting agencies to satisfy the statutory and regulatory newspaper requirements in a manner that provides the most effective public notice mechanisms for a specific community. Section V.A describes the importance of adapting public notice methods to the local community and the importance of doing appropriate research and outreach to determine what combination, of the many methods available, will work best for a given community. In some situations, notice in both print and online newspapers will likely make the most sense. However, EPA recognizes that permitting agencies often have limited funds for notification and wish to have the most effective notice with their limited funds, and in some situations the print version is an additional cost with limited circulation. As mentioned in Section V.B, some state permitting agencies find print newspaper notice ineffective and expensive.[44] [45] See additional background on the notification costs in Section V.C and Section VI.B.

In addition, the EPA notes that newspapers are just one of several public participation vehicles used by states and EPA in engaging communities; newspaper notice is required by statute for permit issuance, but other vehicles can certainly be used in addition to newspaper notice and be more efficient.

B. Request for Comment on Whether Online EPA or State Newsletters/ Bulletins Would Satisfy RCRA and Regulatory Requirements

The Agency is considering and requests comment on whether online newsletters or bulletins published by permitting agencies could qualify as newspapers under EPA regulations, and specifically whether they could qualify under RCRA section 7004(b)(2) and corresponding regulations as major local newspapers of general circulation. While EPA believes significant benefits can be realized by providing notice in online versions of traditional newspapers as compared to print newspapers, EPA also believes that further gains in the quality and efficiency of notice would be achieved in many communities if RCRA section 7004(b)(2) and the EPA regulations were interpreted as allowing for notices posted in appropriate vehicles on agency websites.

EPA has previously recognized the significant notice benefits that can be realized through the posting of notices on agency websites, as compared to notices in traditional newspapers. For example, in the previously referenced PSD (81 FR 71613, October 18, 2016) and NPDES rulemakings (84 FR 3324, February 12, 2019), EPA recognized that online formats can provide more efficient and effective notice for permitting programs in those rulemakings. The PSD change was supported by findings on newspaper readership decline, statistics on the increase of internet usage (and wide availability of internet in public libraries), cost, and other rationale. The rulemaking preamble stated that all state and local agency commenters generally supported the proposal and summarized the benefits of e-notice as follows: [46]

> (1) Significantly improve communication with the public on permit actions in comparison to a one-day newspaper notice; (2) result in broader and better informed public participation; (3) reduce costs and conserve air agency resources; (4) improve public access by making permit actions immediately available through convenient and reliable electronic media outlets; (5) improve communication with environmental justice (EJ) communities and other target audiences; (6) allow for information to be made available for an extended time period; and (7) provide flexibility for permitting agencies and sources by avoiding time delays associated with newspaper publication and allowing for faster correction of errors and rescheduling of events.

Prior to those rulemakings, in 2011, the EPA issued the Tribal New Source Review (NSR) rules that contained, among other things, requirements for noticing of permits in Indian Country that provided for options other than newspaper and print media (76 FR 38748, July 1, 2011). The July 2011 Tribal NSR rule provides options such as web posting and email lists among the methods that the permitting agency may use to provide adequate public notice of such permits.

The benefits EPA identified in these rulemakings apply with equal force to RCRA permitting, and also largely apply to notice of other implementation actions under the Subtitle C regulations. For example, publication of permit notices in online bulletins or newsletters published by state environmental agencies would further reduce costs and processing time for permitting agencies, as they would have greater control over posting and updating public notices. The online sites could also easily make the information available for the entire time

[43] For example, if a state is authorized for public notice criteria with similar criteria to ''publication of a notice in a daily or weekly major local newspaper of general circulation'' as stated in 40 CFR 124.10(c)(2)(ii), they could use the same interpretation.

[44] Dunn, R.E. *Georgia Environmental Protection Division's Comments on EPA's Proposed Evaluation of Existing Regulations.* Letter for Docket EPA–HQ–OA–2017–0190. 2017.

[45] Davis, P.D. *Recommendation for Consideration under Executive Order 13777 on 'Enforcing the Regulatory Reform Agenda'.* Letter for Docket EPA–HQ–OA–2017–0190. 2017.

[46] 81 FR 71613, page 71620.

the notice is applicable (versus the typical one-time publication in a print newspaper, since it can be inordinately costly to run the ad for the entire public comment period and is not required). See additional information on cost in Section V.C. States and the EPA could provide greater context for the notice, for example, linking to applicable permitting documents. In addition, it is reasonable to assume the public, seeking information about hazardous waste facilities permitted by a state or the EPA, would naturally seek information from the state or the EPA websites directly. News bulletins published by state environmental agencies could allow the public a central place to find and subscribe to all environmental news affecting their locality. State RCRA hazardous waste permitting agencies have strongly supported modernizing the public notice requirements under their authorized programs and have raised the issue to the EPA for many years (see discussion and examples in Section V). The RCRA state programs have also raised the issue that print newspapers are not available in all communities (see examples and discussion in Section V.B).

Candidly, EPA views the section 7004(b)(2) newspaper requirement as anachronistic. It seems likely that, if the provision were being drafted today, Congress would not require this notice method for every permit issuance, in view of the rise of online information and news sources and the disappearance of local newspapers. Were it not for section 7004(b)(2), EPA would most likely move toward the broader range of flexibility for RCRA permitting that it created for PSD and NPDES permitting, which utilize web postings for the notice (see Section V.C). In view of this provision of RCRA, however, EPA intends to utilize and provide for the broadest degree of flexibility the text can afford.

Courts and other authorities have acknowledged that the line between newspapers and other publications is difficult to draw.[47] Moreover, there is a range of definitions of ''newspaper of general circulation.'' In a holding typical of a number of decisions, a court has stated that, in determining whether a publication qualifies as a newspaper of general circulation under a statute, ''the ultimate consideration'' is whether the publication ''fulfills the purpose underlying [the] statute . . .—to give notice to the general public.'' [48] The EPA believes online newsletters and bulletins could potentially qualify as newspapers of general circulation for purposes of section 7004(b)(2) if they fulfill the purpose of effectively providing notice to the affected community.

EPA recognizes that Agency web postings would probably not commonly be referred to as newspapers. Publications understood to be newspapers are typically generated by private companies, rather than by government agencies. However, courts have treated publications of the Army News Service, which is part of the Army's Command Information Program, as newspapers.[49] Thus, EPA does not believe publication by a federal agency bars an information source from being considered a newspaper.

EPA has identified examples of web-based bulletins and newsletters published by state environmental agencies that satisfy key criteria identified in case law and other sources to identify newspapers of general circulation. A summary of such criteria from Corpus Juris Secundum (CJS) is quoted above. A similar summary is provided in Black's Law Dictionary, which defines ''newspaper of general circulation'' as:

> A newspaper that contains news and information of interest to the general public, rather than to a particular segment, that is available to the public within a certain geographic area, that is circulated mostly to paid subscribers, and that has been continuously serving the same readership area for a specified time.

Applying the kinds of criteria found in the definitions, EPA has identified online bulletins and newsletters published by some state environmental agencies that:

- Contain news and information of interest to the general public, rather than to a particular segment. Members of the public generally have interest in environmental and land use issues affecting the community, and the postings of environmental agency bulletins and newsletters generally are not targeted to a particular segment of the population. Along these lines, some state bulletins and newsletters appear on websites that contain information on a broad range of public lands, recreational and other environmental and conservation-related matters as well as information on specific permitting actions.
- Have been continuously serving the same readership for an extended period and are widely recognized in the state as reliable sources of information on environmental developments and issues. These sources are therefore likely to be consulted for such information, such that it is probable that notices appearing in them will be brought to the attention of the interested public.
- Are available to subscribers, in addition to the public more generally, through Listservs.
- Publish at regular, short intervals.

Courts have held newspapers to be of general circulation for the purpose of a particular type of notice where they were of interest to the part of the community likely to be concerned with the subject of the notice in question and/or have a reputation for carrying a particular type of notice. This consideration would militate in favor of considering well-established online state environmental bulletins and newsletters to be newspapers of general circulation.

Moreover, EPA has identified online bulletins and newsletters that can be viewed as ''local.'' They are specific to the state, and some divide the notices within the state into regions (for example, by county or city). Their circulation may not be limited to particular localities in the same way as traditional local print newspapers; but, again, many communities do not have such traditional local newspapers in any format. And these bulletins can be considered ''major,'' because they have a large number of subscribers and are widely known in the state as the best source for information on environmental permits and other environmental issues.

EPA recognizes that web-based agency environmental bulletins will likely not have all of the elements identified in the various definitions of ''newspaper of general circulation.'' For example, the summary provided in CJS identifies ''editorial opinion, and advertisements'' as elements. However, there is no definitive definition of ''newspaper of general circulation,'' and the various definitions differ. Accordingly, courts have held that newspapers that lack some of the features identified in some definitions nonetheless qualify as newspapers of general circulation.[50] RCRA section

[47] *See, e.g., Old Principles, New Technology, and the Future of Notice in Newspapers,* 38 Hofstra L. Rev. 1009, 1028 (''As defined by ordinary dictionaries, the term 'newspaper' is ambiguous. Likewise, no universal legal definition of 'newspaper' exists'').

[48] *City of Postville* v. *Upper Explorerland Regional Planning Commision,* 834 N.W. 2d 1 (IA 2013).

[49] *See, e.g., Bryant* v. *Sec'y of Army,* 862 F. Supp. 574, 576 (D. D.C. 1994) (reviewing claims relating to *The Pentagram* and *The Stripe*—both classified as Civilian Enterprise Newspapers).

[50] *See, e.g.,* 24 A.L.R. 4th 822 section 4[a] (citing caselaw holding that a publication qualified as a newspaper of general circulation despite containing no editorials, because the governing statute did not require that the newspaper contain editorials).

7004(b)(2) does not prescribe specific characteristics that a newspaper must have to qualify under the general statutory language, and it should therefore be interpreted flexibly to accomplish the underlying purpose of providing effective notice to the public. EPA is specifically requesting comment regarding whether online bulletins or newsletters published by state or EPA permitting agencies can be considered major local newspapers of general circulation and, if so, what attributes they should possess to be considered as such. EPA will not implement such an interpretation until after comments are received and assessed (but with regard to permit actions that are not under section 7004(b)(2), see the approach outlined in Section VII). Also, EPA welcomes comments on whether it should propose to amend the permitting public notice regulations to address the use of agency newsletters and bulletins. (Note, other options will continue to be available, see Section V.A on site-specific assessment for notification and outreach for permit issuance and other actions outlined in the 2016 RCRA Public Participation Manual.[51])

VII. Newspaper Notice Requirements for Permitting Actions That Are Not Subject to RCRA Section 7004(b)(2)

RCRA section 7004(b)(2) applies only to notice of a state agency's or EPA's intention to issue[52] a RCRA permit. However, as stated above, EPA regulations impose newspaper notice requirements on a broader range of permitting actions. Examples include the following:

- Class 3 modifications (§ 124.10(c)(2)(ii)) and Agency-initiated modifications (§§ 270.41, 124.5, and 124.10(c)(2)(ii));
- Permit modification requests by the permittee per §§ 270.42(b)(2) and (c)(2));
- Requirement to list annual permit modification approvals in a statewide newspaper (§ 270.42(i));
- Permit denials (§ 124.1(a)); and
- Any other newspaper notice required under RCRA Subtitle C that are not for the permitting agency's intention to issue a RCRA permit.

EPA regulations also require newspaper notice for actions and events other than permitting actions. For example, the regulations in 40 CFR 271.21(b)(3)(i)(B) and (b)(4)(i)(B)) require EPA to provide notice of state authorization decisions in state newspapers.

When the EPA is the permitting agency, the EPA must adhere to these requirements. Although authorized states are subject to the section 7004(b)(2) requirement for the issuance of permits, they are not subject to the 40 CFR part 124 regulatory requirements; rather, they are subject to the analogous authorized text in their regulatory requirements. Authorized state permitting requirements must be equivalent to and no less stringent than the federal program, but they need not be identical (see the note[53] in the regulations at 40 CFR 271.14). As explained in Section VI.B above, the EPA believes that online forms of notice (including state newsletters/bulletins) are likely to be more effective than notice in traditional print newspapers in many communities. Consequently, if authorized states interpret their existing authorized regulations as allowing for such flexibility for notices not subject to section 7004(b)(2), EPA would generally not view that as creating an issue as to the equivalence of the state program as long as they provide for notice that is likely to be as effective as or more effective than the notice required by the federal regulations. If states must amend their regulations to provide this flexibility, EPA believes that these regulations are likely to be equivalent to the federal program.

Finally, EPA requests comment on whether it should amend its public notice regulations to clarify options for public noticing permit actions and other actions (except for permit issuance), which are not governed by RCRA 7004(b)(2). EPA does not envision regulatory changes to preclude newspaper notice where it is appropriate, but the Agency is interested in the public's views as to whether the regulations should allow for a broader range of notice mechanisms, including web postings, where appropriate for the community and circumstances. As discussed in the preceding paragraph, such amendments are not necessary to afford authorized states this flexibility, and most permit actions are undertaken by authorized states.

VIII. Environmental Justice and Civil Rights Considerations

The EPA has carefully considered the principles of equity in developing this notice to ensure equity and accessibility and to increase transparency to marginalized communities. The principle of equity focuses on ensuring that all communities have access to equitable environmental and public health benefits and a meaningful opportunity to participate in decision making. This includes communities of color and low-income communities as well as people with limited English proficiency and with disabilities. As noted by the EPA Administrator ''[t]oo many communities whose residents are predominantly of color, Indigenous, or low-income continue to suffer from disproportionately high pollution levels and the resulting adverse health and environmental impacts.'' In an effort to increase EPA's protective measures, activities, and programs in new and creative ways in communities with environmental justice concerns, the EPA carefully evaluated the potential effect of the interpretations presented in this notice on underserved communities with EJ concerns. In addition, EPA considered the interpretations presented in this notice in light of the federal civil rights laws that apply to recipients of EPA financial assistance.

Public notices represent one of the regular and official channels of communication with communities burdened with environmental justice concerns. The RCRA Expanded Public Participation Rule[54] enhanced public involvement in the RCRA permit process by requiring permitting agencies (*e.g.,* EPA or the authorized state) to expand procedural opportunities for public participation earlier in the process and during key milestones for communities affected by RCRA permits. The effectiveness of noticing methods for reaching marginalized communities and communities with environmental justice concerns is a substantial concern to the EPA. As noted in Section V.C, the loss of newspapers is disproportionate. The 2020 UNC Hussman report concluded that, in the past 15 years, the U.S. has lost one-fourth (2,100) of its newspapers and most of these losses were sustained in economically struggling communities. The economic fallout from the COVID–19 pandemic has dramatically increased the decline. To ensure the most meaningful public participation in the issuance of RCRA permits and other RCRA permit actions, EPA finds it necessary to consider

[51] EPA Office of Land and Emergency Management. *Resource Conservation and Recovery Act Public Participation Manual.* 2016. 530–R–16–013, Chapter 5. Accessed via: *https://www.epa.gov/sites/default/files/2019-09/documents/final_rcra_ppm_updated.pdf.*

[52] RCRA Permit ''issuance'' includes the issuance of RCRA permit renewals (as discussed in Section IV) in addition to initial permit issuance.

[53] 40 CFR 271.14 Note: ''States need not implement provisions identical to the above listed provisions. Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions.''

[54] 60 FR 63417, December 11, 1995.

modern tools and methods for public notice and outreach, as discussed in this notice, to reflect substantial changes in technology, the media, and the way different segments of the public access information.

According to the final National Environmental Justice Advisory Council (NEJAC), EJ in Permitting Subgroup Report,[55] the publication in the legal section of a regional print newspaper is antiquated, ineffective, and is not ideal for providing notice to low-income and minority communities. Regarding public participation, the report recommends the following to the EPA: ''To ensure meaningful public participation, the public notice and outreach process must include direct communication in appropriate languages through telephone calls and mailings to EJ and tribal communities, press releases, radio announcements, electronic and regular mail, website postings and the posting of signs.'' EPA finds today's notice consistent with the report's recommendations in that EPA intends to provide for the full range of flexibility allowed by RCRA and EPA regulations to satisfy the public notice requirements.

In the 2016 PSD rulemaking described above, commenters noted that modernizing notification processes to provide for electronic notice would be more efficient and convenient for communicating permitting-related information to the public, including communities with environmental justice concerns. Several commenters supported the EPA's conclusion that because there have been substantial changes in technology, the media, and the way the public access media, electronic notifications are more effective means of public notification than newspaper publication. Commenters note that this conclusion applied not only to the public in general, but also for communities with environmental justice concerns. One commenter noted that overburdened communities today obtain and share more information through the internet than through newspaper circulation. The comments also confirmed that some districts have already been encouraged to provide electronic notice by EJ advocates, noting that such notices improve the level of available information and customer service offered to the public, including marginalized communities, by allowing the district to immediately make available permitting action notices in languages other than English. To that point, the commenter explained that public outreach initiatives cannot be nearly as effective with just traditional newspaper notification. The EPA agreed with the commenters and found that electronic notice and electronic access have been an effective and convenient way to communicate permitting-related information to the public.[56]

As marginalized communities impacted by environmental justice concerns and other targeted audiences shift away from traditional news and information vehicles and increase their use of the web-based resources for information, the option for electronic noticing public notices could improve communication and increase the public's participation in the RCRA permit process for some of these communities.

IX. Do guidance documents contain binding requirements?

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Dated: December 10, 2021.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2021–27252 Filed 12–15–21; 8:45 am]

BILLING CODE 6560–50–P

[55] National Environmental Justice Advisory Council. *Enhancing Environmental Justice in EPA Permitting Programs.* A Report of Advice and Recommendations. 2011, pages 20–21. Accessed via: *https://www.epa.gov/sites/production/files/2015-02/documents/ej-in-permitting-report-2011.pdf.*

[56] EPA recognizes that such electronic vehicles may not be effective for some segments of the public at some facilities.

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Reappointment of Board Member to FASAB

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that Mr. Patrick McNamee has been reappointed to the Federal Accounting Standards Advisory Board (FASAB or ''the Board''). Mr. McNamee's second and final five-year term on the Board begins on January 1, 2022, and will conclude on December 31, 2026.

ADDRESSES: The news release is available on the FASAB website at *https://www.fasab.gov/news-releases/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: 31 U.S.C. 3511(d), the Federal Advisory Committee Act, as amended (5 U.S.C. app.), and the FASAB Rules of Procedure, as amended in October 2010.

Dated: December 13, 2021.

Monica R. Valentine,

Executive Director.

[FR Doc. 2021–27198 Filed 12–15–21; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 62319]

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) is modifying a system of records, FCC/WCB–3, Emergency Broadband Benefit Program, 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 Emergency Broadband Benefit Program (''Emergency Broadband'') provides discounts for broadband internet access service (''BIAS'') to qualifying households. Under the Infrastructure Investment and Jobs Act, signed into law on November 15, 2021, the Emergency Broadband program will become the Affordable Connectivity Program (''ACP'') on December 31, 2021. A household may qualify for ACP if an individual in the household has applied for and has been approved to receive benefits under the free and reduced price lunch program, receives assistance through the special supplemental nutritional program for women, infants, and children established by section 17 of the Child Nutrition Act of 1996 (''WIC''), receives a Pell Grant, qualifies for the Lifeline program, meets certain income requirements, or qualifies for a low-income program offered by internet service providers. The ACP will be administered by the Universal Service Administrative Company (USAC) under

the direction of the Commission and, by delegation, of the Commission's Wireline Competition Bureau (WCB). This system of records contains information about individual ACP participants, providers' claims and certifying officers, and providers' enrollment representatives.

DATES: Written comments are due on or before January 18, 2022. This action takes effect on December 16, 2021, except for any new or significantly modified routine uses, which will take effect on January 18, 2022.

ADDRESSES: Send comments to Brendan McTaggart, Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554, or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Brendan McTaggart, (202) 418–1738, or *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: In December 2020, Congress passed and the President signed the Consolidated Appropriations Act, 2021 authorizing *Emergency Broadband Service During Emergency Period Related to COVID–19,* establishing the Emergency Broadband Benefit Program to temporarily provide eligible households a discount on the cost of internet service and a subsidy for low-cost devices such as computers and tablets. The Universal Service Administrative Company (USAC) was designated to administer this Program. In November 2021, Congress passed and the President signed the Infrastructure Investment and Jobs Act, modifying and extending the Emergency Broadband Benefit Program and changing its name to the Affordable Connectivity Program (ACP). Households can qualify for the benefit if an individual in the household: Has applied for and has been approved to receive benefits under the free and reduced price lunch program, receives a Pell Grant, receives assistance under WIC (42 U.S.C. 1786), qualifies for the Lifeline program, meets certain income requirements, or qualifies for a low-income program offered by internet service providers. USAC will administer this program on behalf of the Commission.

The substantive changes and modifications to the previously published version of the FCC/WCB–3 system of records include:

(a) Updating the name of the system of records to reflect the change in the title of the program;

(b) Updating the authorities to include the Infrastructure Investment and Jobs Act that modifies the Consolidated Appropriations Act, 2021;

(c) Updating the purpose for maintaining this system of records to include using the information to perform recertification verifications and provide program notifications;

(d) Updating the categories of records maintained in this system of records to add email address and identification number of veteran or beneficiary issued by the Veterans Administration;

(e) Updating the name of the program throughout the system of records notice; and,

(f) Updating the Summary to include WIC participant households as households qualifying for ACP benefits.

(g) Updating Routine Use 1 to remove the FCC as already covered by the Privacy Act under 5 U.S.C. 552a(b)(1).

(h) Consolidating Routine Uses 2, 3, and 4, and deleting Routine Uses 3 and 4.

(i) Consolidating Routine Uses 5 and 7, and deleting Routine Use 7.

(j) Modifying Routine Use 8 to avoid overlap with Routine Use 5.

(k) Modifying Routine Use 15 and creating a new Routine Use 16 to distinguish disclosures to the U.S. Department of Justice from disclosures to a court or other adjudicative body.

(l) Consolidating Routine Use 18 into Routine Uses 5 and 10, and deleting Routine Use 18.

(m) Making other conforming and grammatical edits, including renumbering the Routine Uses.

SYSTEM NAME AND NUMBER:

FCC/WCB–3, Affordable Connectivity Program.

SECURITY CLASSIFICATION:

No information in the system is classified.

SYSTEM LOCATION(S):

Universal Service Administrative Company (USAC), 700 12th Street NW, Suite 900, Washington, DC 20005; and

Wireline Competition Bureau (WCB), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S) AND ADDRESS(ES):

USAC administers the ACP for the FCC.

Address inquiries to the Universal Service Administrative Company (USAC), 700 12th Street NW, Suite 900, Washington, DC 20005; or

Wireline Competition Bureau (WCB), 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151–154, 201–205, 214, 403; Consolidated Appropriations Act, 2021, Public Law 116–260 § 904; Infrastructure Investment and Jobs Act, Public Law 117–58 §§ 60501 *et seq.;* 47 CFR Sections 54.400, 54.401, 54.404, 54.407, 54.409, 54.410, 54.417, 54.419, 54.420, 54.1600–54.1612.

PURPOSE(S):

This system of records is maintained for use in determining whether a member of a household meets the eligibility criteria to qualify for and/or recertify for a discount on the cost of internet service and a subsidy for low-cost devices such as computers and tablets; ensuring benefits are not duplicated; dispute resolution regarding eligibility for the ACP; customer surveys and program notifications; audit; verification of a provider's representative identity; and statistical studies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include, but are not limited to, those individuals who have applied for the ACP; are currently receiving ACP benefits; are individuals who enable another individual to qualify for benefits, including veterans or their beneficiaries; are minors whose status qualifies a household for benefits; are individuals who have received benefits under the Lifeline Program; or are individuals acting on behalf of a participating provider as enrollment representatives who have enrolled or verified the eligibility of a household in the ACP.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system include an applicant's first and last name; email address; residential address; information on whether the individual resides on Tribal lands or certain high-cost areas; information on whether the address is temporary and/or descriptive and whether it includes coordinates; mailing address (if different); address based on geographic coordinates (geocoding); internet Protocol (IP) address; date of birth; last four digits of social security number, full Tribal identification number, or identification number assigned by the Veterans Administration; telephone number; full name of the qualifying person (if different from the individual applicant); qualifying person's date of birth; qualifying person's email address; qualifying person's residential address; qualifying person's mailing address; the last four digits of the qualifying person's social security number, their full Tribal identification number, or identification number assigned by the Veterans Administration; information on whether the qualifying person resides on Tribal lands or certain high cost areas; full

name of the veteran (if different from the individual applicant and qualifying person); veteran's date of birth (if different from the individual applicant and qualifying person); the veteran's identification number assigned by the Veterans Administration; veteran's email address; the veteran's residential address (if different from the individual applicant and qualifying person); the veteran's mailing address; means of qualification for the ACP (*i.e.*, participation in Lifeline, receipt of a Pell Grant, qualification for federal nutrition programs, etc.); documents demonstrating eligibility; ACP subscriber identification number; ACP application number; security question; answer to security question; user name; password; agent identification information (if an agent is assisting in completing the application); individual applicant's eligibility certifications; individual applicant's signature and date of application; ACP service initiation date and termination date; amount of discount received; and amount of device benefit received.

For participating provider enrollment representatives who register to access the National Verifier or National Lifeline Accountability Database the following information may be collected: First and last name, date of birth, the last four digits of his or her social security number, email address, and address, or other identity proof documentation.

RECORD SOURCE CATEGORIES:

Participating providers and their registered enrollment representatives; individuals applying on behalf of a household; schools; Lifeline databases; and State, Federal, Local and Tribal Government databases; and third-party identity verifiers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Program Management—To USAC employees to conduct official duties associated with the management, operation, and oversight of the ACP, the National Lifeline Accountability Database (NLAD), the National Verifier, and the Representative Accountability Database (RAD), as directed by the Commission.

2. Third Party Contractors—To an employee of a third-party contractor engaged by USAC or a participating provider, or to a subcontractor engaged by a third-party contractor engaged by USAC, to, among other things, develop the ACP Eligibility Database, perform and review eligibility evaluations where the National Verifier conducts such processes for purposes of performing manual eligibility verification (when needed), conduct the eligibility verification or recertification process, run call center and email support operations, assist in dispute resolution, and develop, test, and operate the database system and network.

3. Federal, State, and Local Agencies, Tribal Nations and Agencies, and Other Authorized Government Entities—To designated Federal, State, and Local agencies, and Tribal Nations and agencies, and other authorized governmental entities that share data with USAC or the FCC for purposes of eligibility verification, including through a computer matching program; providing enrollment and other selected reports; or comparing information contained in NLAD and ACP eligibility.

4. Social Service Agencies and Other Approved Third Parties—To social service agencies and other third parties that have been approved by USAC for purposes of assisting individuals in applying for the ACP.

5. Tribal Nations—To Tribal Nations for purposes of assisting individuals in applying for and recertifying for ACP.

6. Service Providers—To broadband providers, and their registered representatives, in order to confirm an individual's eligibility, complete benefit transfer requests, facilitate the provision of service, complete de-enrollments, allow for the provider to receive reimbursement through the ACP, to provide information to the relevant provider about a registered enrollment representative whose account has been disabled for cause, and provide enrollment and other selected reports.

7. Other Federal Program Eligibility—To disclose an individual's ACP participation status to a federal agency or contractor, including through a computer matching program, when a federal program administered by the agency or its contractor uses qualification for ACP as an eligibility criterion.

8. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of FCC rules and regulations by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant in filing his or her complaint explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

9. 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 request of that individual.

10. Government-Wide Program Management and Oversight—To the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

11. Law Enforcement and Investigation—To disclose pertinent information to appropriate Federal, State, or local agencies, authorities, and officials responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC or USAC becomes aware of an indication of a violation or potential violation of a civil or criminal statute, law, regulation, or order, including but not limited to notifying the Internal Revenue Service (IRS) to investigate income eligibility verification.

12. Litigation—To disclose the records to the Department of Justice (DOJ) when: (a) The FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the FCC collected the records.

13. Adjudication—To disclose the records in a proceeding before a court or adjudicative body, 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; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

14. Breach Notification—To appropriate agencies, entities (including USAC), 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 compromise 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 the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

15. Assistance to Federal Agencies and Entities—To another Federal agency or Federal entity or USAC, 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.

16. Prevention of Fraud, Waste, and Abuse Disclosure—To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC or USAC has a contract, service agreement, cooperative agreement, or computer matching agreement for the purpose of: (1) Detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC or USAC provides information under this routine use.

17. Contract Services, Grants, or Cooperative Agreements—To disclose information to FCC or USAC contractors, grantees, or volunteers who have been engaged to assist the FCC or USAC 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information pertaining to the ACP includes electronic records, files, data, paper documents, records, and may include audio recordings of calls. Records are maintained in secure, limited access areas. Physical entry by unauthorized persons is restricted through use of locks, passwords, and other security measures. Both USAC and its contractors will jointly manage the electronic data housed at USAC and at the contractors' locations. Paper documents and other physical records (*i.e.,* tapes, compact discs, etc.) will be kept in locked, controlled access areas. Paper documents submitted by applicants to the ACP and provider representatives will be digitized, and paper copies will be immediately destroyed after digitization.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in the ACP system of records may be retrieved by various identifiers, including, but not limited to the individual's name, last four digits of the social security number, Tribal identification number, identification number assigned by the Veterans Administration, date of birth, email address, phone number, address, and ACP subscriber identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The National Archives and Records Administration (NARA) has not established a records schedule for the information in the ACP system of records. Consequently, until NARA has approved a records schedule, USAC will maintain all information in the ACP system of records in accordance with NARA records management directives.

ADMINSTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, data, and files are maintained in the FCC and the USAC computer network databases, which are protected by the FCC's and USAC's privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the National Institute of Standard and Technology (NIST) and the Federal Information Security Management System (FISMA). In addition, access to the electronic files is restricted to authorized USAC and contractors' supervisors and staff and to the FCC's supervisors and staff in WCB and to the IT contractors who maintain these computer databases. Other FCC employees and contractors may be granted access only on a ''need-to-know'' basis. In addition, data in the network servers for both USAC and its contractors will be routinely backed-up. The servers will be stored in secured environments to protect the data.

The paper documents and files are maintained in file cabinets in USAC and the contractors' office suites. The file cabinets are locked when not in use and at the end of the business day. Access to these files is restricted to authorized USAC and its contractors' staffs.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about themselves should follow the Notification Procedure below.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing Federal Communications Commission (FCC), Washington, DC 20554, *Privacy@fcc.gov*. Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to the records (47 CFR Part 0, Subpart E).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–27345 Filed 12–15–21; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1181; FR ID 61924]

Information Collection 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 (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. 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 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 14, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1181.

Title: Study Area Boundary Data Reporting in Esri Shapefile Format, DA 12–1777 and DA 13–282.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, Local or Tribal Government.

Number of Respondents and Responses: 76 respondents; 76 responses.

Estimated Time per Response: 26 hours for submitting updates; less than 1 hour for recertification. Frequency of Response: On occasion and biennially reporting requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in *47 U.S.C. 254(b)* of the Communications Act of 1934, as amended.

Total Annual Burden: 1,297 hours.

Total Annual Cost: $20,072.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: The Commission uses the study area boundary data collected through 3060–1181 to implement certain universal service reforms. The Universal Service Fund supports the deployment of voice and broadband-capable infrastructure in rural, high cost areas. High-cost support is granted to a carrier based on the characteristics of its ''study area,'' the geographic area served by an incumbent local exchange carrier within a state. Therefore, complete and accurate study area boundary data are essential for calculating a carrier's costs and expenses, which in turn determine the amount of support that carrier can receive to serve high-cost areas. In December 2012, the Commission submitted a request for emergency preapproval of this collection, which the Office of Management and Budget (OMB) granted on January 23, 2013. On June 12, 2013, the Commission submitted a request for a three-year extension of the collection to July 31, 2016 (78 FR 34382), which OMB approved on July 31, 2013 (78 FR 76312). Initial study area boundaries were submitted in 2013. These maps were submitted via a secure internet-browser web interface developed and maintained by the Commission. If a study area boundary changes, filers are required to submit, via this interface, revised boundary data incorporating such changes by March 15 of the year following the change. In addition, all filers are required to recertify their study area boundaries every two years.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–27175 Filed 12–15–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

TIME AND DATE: 10:47 a.m. on Tuesday, December 14, 2021.

PLACE: The meeting was held via video conference on the internet.

STATUS: Closed.

MATTERS TO BE CONSIDERED: In calling the meeting, the Board determined, on motion of Director Martin J. Gruenberg, seconded by Director Michael J. Hsu (Acting Comptroller of the Currency), and concurred in by Director Rohit Chopra (Director, Consumer Financial Protection Bureau), and Chairman Jelena McWilliams, that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B).

CONTACT PERSON FOR MORE INFORMATION: Requests for further information concerning the meeting may be directed to Debra Decker, Deputy Executive Secretary of the Corporation, at 202–898–8748.

Dated this the 14th day of December, 2021.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–27395 Filed 12–15–21; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies,

in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice made the grants. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[11/01/2021 12:00:00 a.m., 11/30/2021 12:00:00 a.m.]

11/05/2021		
20211232	S	The Golub Voting Trust Agreement dated November 24, 2008; Tops Markets Corporation; The Golub Voting Trust Agreement dated November 24, 2008.
20211233	S	Tops Markets Corporation; The Golub Voting Trust Agreement dated November 24, 2008; Tops Markets Corporation.
11/09/2021		
20211525	S	ANI Pharmaceuticals, Inc.; Esjay LLC; ANI Pharmaceuticals, Inc.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry (202–326–3100), Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2021–27174 Filed 12–15–21; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0149; Docket No. 2021–0053; Sequence No. 15]

Information Collection; Subcontract Consent and Contractors' Purchasing System Review

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision concerning subcontract consent and Contractors' Purchasing System Review. DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through February 28, 2022. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by February 14, 2022.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0149, Subcontract Consent and Contractors' Purchasing System Review. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0149, Subcontract Consent and Contractors' Purchasing System Review.

B. Need and Uses

This clearance covers the information that a contractor must submit to comply with the requirements in Federal Acquisition Regulation (FAR) 52.244–2, Subcontracts, regarding consent to subcontract, advance notification, and Contractors' purchasing system review as follows:

1. Consent to subcontract. This is the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. The review allows the Government to determine whether the contractor's purchasing policies and practices are efficient and adequately protect the Government's interests.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts

for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold.

2. Advance notification. Prime contractors must provide contracting officers notification before the award of any cost-plus-fixed-fee subcontract, or certain fixed-price subcontracts that are identified in paragraph (b), (c) and (d) of FAR clause 52.244–2. This requirement for advance notification is driven by statutory requirements in 10 U.S.C. 2306 and 41 U.S.C. 3905.

3. Contractors' Purchasing System Review. The objective of a contractor purchasing system review (CPSR), is to evaluate the efficiency and effectiveness with which a contractor spends Government funds and complies with Government policy when subcontracting. Paragraph (i) of FAR clause 52.244–2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3. This clause is the mechanism through which the requirements of FAR subpart 44.3 are applied to contractors.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial items pursuant to Part 12) are expected to exceed $25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. The head of the agency responsible for contract administration may raise or lower the $25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

A CPSR is a thorough review of a contractor's existing procurement policies, procedures, management control systems (including internal audit procedures), and documentation. The review provides the ACO a basis for granting, withholding, or withdrawing approval of a contractor's purchasing system. An approved purchasing system allows the contractor more autonomy in subcontracting actions. Without an approved purchasing system more Government oversight is necessary, and Government consent to subcontract is required. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the factors identified above. For example, the Defense Contract Management Agency (DCMA) Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. As of fiscal year (FY) 2018, the group's review workload included more than 500 contractors worldwide.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305–1).

Related administrative requirements are as follows: FAR 44.305–2(c) requires that when recommendations are made for improvement of an approved system, the contractor shall be requested to reply within 15 days with a position regarding the recommendations.

FAR 44.305–3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall make a follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

C. Annual Burden

Respondents: 4,154.

Total Annual Responses: 11,982.

Total Burden Hours: 58,273.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0149, Subcontract Consent and Contractors' Purchasing System Review.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2021–27241 Filed 12–15–21; 8:45 a.m.]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0198; Docket No. 2021–0053; Sequence No. 14]

Information Collection; Certain Federal Acquisition Regulation Part 9 Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision concerning certain Federal Acquisition Regulation (FAR) part 9 requirements. DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through February 28, 2022. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by February 14, 2022.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow

the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Instructions: All items submitted must cite OMB Control No. 9000–0198, Certain Federal Acquisition Regulation Part 9 Requirements. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s):

9000–0198, Certain Federal Acquisition Regulation Part 9 Requirements.

B. Need and Uses

DoD, GSA, and NASA are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of the expiration date of OMB Control No. 9000–0198 and combines it with the previously approved information collections under OMB Control Nos. 9000–0083 and 9000–0193, with the new title ''Certain Federal Acquisition Regulation Part 9 Requirements''. Upon approval of this consolidated information collection, OMB Control Nos. 9000–0083 and 9000–0193 will be discontinued. The burden requirements previously approved under the discontinued numbers will be covered under OMB Control No. 9000–0198.

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR 52.209–1, Qualification Requirements. This clause requires offerors to provide with their proposal: Their name, the manufacturer's name, source's name, item's name, service identification, and test number (if known) for a proposed product or service that has already been determined to meet the qualification standards. If an offeror, manufacturer, source, product or service has met the qualification requirement but is not yet on a qualified products list, qualified manufacturers list, or qualified bidders list, this clause requires the offeror to submit evidence of qualification prior to award of a contract.

2. FAR 52.209–2, 52.209–10, and 52.212–3(n), Prohibition on Contracting with Inverted Domestic Corporations. FAR provision 52.209–2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, and its equivalent for commercial acquisitions at FAR 52.212–3(n), requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

FAR clause 52.209–10, Prohibition on Contracting with Inverted Domestic Corporations, requires contractors to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a subsidiary of an inverted domestic corporation during the period of performance of the contract.

3. FAR 52.209–5, 52.209–6, and 52.212–3(h), Debarment, Suspension, and other Responsibility Matters. FAR provision 52.209–5, Certification Regarding Responsibility Matters, and its equivalent for commercial acquisitions at FAR 52.212–3(h), require the disclosure of the following critical information by an offeror to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
  - Debarred, suspended, proposed for debarment, declared ineligible for contract award;
  - Within a three-year period preceding their offer:
    - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
    - Notified of any delinquent Federal taxes in an amount that exceeds $10,000 for which the liability remains unsatisfied;
    - Had one or more contracts terminated for default by any Federal agency; or
    - Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses identified above.

If the offeror has responded affirmatively to the certifications in the FAR provisions at 52.209–5 or 52.212–3(h), the offeror shall provide additional information if requested by the contracting officer. The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Paragraph (c) of the FAR clause at 52.209–6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment, requires the contractor to require each proposed subcontractor whose subcontract will exceed $35,000, other than a subcontractor providing a commercially available off-the-shelf (COTS) item, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government.

Paragraph (d) of the FAR clause at 52.209–6 requires a corporate officer or designee of the contractor to notify the contracting officer, in writing, before entering into a subcontract (for other than COTS items) with a party that is debarred, suspended, or proposed for debarment. The written notice must include: The name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor. For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts unless the agency head or a designee states in writing the compelling reasons for approving such subcontract.

4. FAR 52.209–7 and 52.209–9, Information Regarding Responsibility Matters and Updates to that Publicly

Available Information. FAR provision 52.209–7, Information Regarding Responsibility Matters, requires each offeror to represent whether it has current active Federal contracts and grants with a total value greater than $10 million. The provision also requires each offeror to post in the Federal Awardee Performance and Integrity Information System (FAPIIS), as required by maintaining an active registration in the System for Award Management (SAM), information on whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with the award to or performance by the offeror of a federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:

(a) A criminal conviction in the case of a criminal proceeding;

(b) The finding of fault and liability in a civil proceeding resulting in the payment of $5,000 or more in damages, restitution, reimbursement, fine or penalty;

(c) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of $5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of $100,000; or

(d) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (4)(a) through (c) above.

Paragraph (a) of the FAR clause 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters, requires contractors to update the information in FAPIIS on a semiannual basis, throughout the life of the contract, by posting the information in SAM. Paragraph (c) of the FAR clause 52.209–9 informs contractors of their ability to provide feedback on information posted by the Government in FAPIIS and the procedure to follow in the event information exempt from public disclosure is slated to become publicly available information in FAPIIS.

5. FAR 52.209–11, 52.209–12, and 52.212–3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. FAR provision 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, and its equivalent for commercial acquisitions at FAR 52.212–3(q), require offerors to represent whether the offeror is a corporation that—

- Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- Was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

FAR provision 52.209–12, Certification Regarding Tax Matters, require offerors proposing a total contract price that will exceed $5.5 million (including options) to certify that, to the best of the offeror's knowledge and belief, it—

- Has filed all Federal tax returns required during the three years preceding the certification;
- Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and
- Has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

6. FAR 52.209–13, Violations of Arms Control Treaties or Agreements with the United States. Unless the offeror is providing evidence of a waiver or determination in accordance with paragraph (b)(2) of the FAR provision at 52.209–13, Violation of Arms Control Treaties or Agreements—Certification, paragraph (b)(1) of the provision requires offerors to certify that—

- The offeror does not engage and has not engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a); and
- No entity owned or controlled by the offeror is an entity organized under the laws of such country, that engages or has engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state.

Contracting officers use the collected information described above to determine an offeror's responsibility for contract award.

C. Annual Burden

Respondents: 1,802,621.
Total Annual Responses: 1,953,229.
Total Burden Hours: 547,110.
Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0198, Certain Federal Acquisition Regulation Part 9 Requirements.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2021–27240 Filed 12–15–21; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10524 and CMS–906]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our

burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by February 14, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10524 Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetic, Orthotics, and Supplies (DMEPOS)

CMS–906 Fiscal Soundness Reporting Requirements (FSRR)

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetic, Orthotics, and Supplies (DMEPOS); *Use:* Section 1834(a)(15) of the Social Security Act (the Act) authorizes the Secretary to develop and periodically update a list of DMEPOS that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization and to develop a prior authorization process for these items. Pursuant to this authority, CMS published final rules CMS–6050–F and CMS–1713–F.

The information required under this collection is used to determine proper payment and coverage for DMEPOS items. The information requested includes all documents and information that demonstrate the DMEPOS item requested is reasonable and necessary for the beneficiary and meets applicable Medicare requirements. The documentation will be reviewed by trained registered nurses, therapists, or physician reviewers to determine if item(s) or service requested meets all applicable Medicare coverage, coding and payment rules. *Form Number:* CMS–10524 (OMB control number: 0938–1293); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 273,305; *Total Annual Responses:* 273,305; *Total Annual Hours:* 136,652. (For policy questions regarding this collection contact Stephanie Collins at (410) 786–0959.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Fiscal Soundness Reporting Requirements (FSRR); *Use:* Title 18 Section 1857(d)(4)(A)(i) requires that contracting organizations such as Medicare Health Plans (including Medicare Advantage (MA) organizations, Medicare-Medicaid Capitated Financial Alignment Demonstrations (MMPs)) and 1876 Cost Plans), Prescription Drug Plan sponsors (PDPs), and Programs of All-Inclusive Care for the Elderly (PACE) organizations report financial information demonstrating the organization has a fiscally sound operation. The FSRR is designed to capture financial data of these contracting entities. The Division of Finance and Benefits (DFB) within the Medicare Advantage Contract Administration Group (MCAG) of CMS is assigned the responsibility of reviewing ongoing financial performance of the contracting entities.

All contracting organizations must submit audited annual financial statements one time per year. In addition to the audited annual submission, Health Plans with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth submit quarterly financial statements for fiscal soundness monitoring. Part D organizations are required to submit three (3) quarterly financial statements. Lastly, PACE organizations are required to file four (4) quarterly financial statements for the first three (3) years in the program. After the first three (3) years, PACE organizations with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth must submit quarterly financial statements for fiscal soundness monitoring. *Form Number:* CMS–906 (OMB control number: 0938–0496); *Frequency:* Quarterly and Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 936; *Total Annual Responses:* 1,958; *Total Annual Hours:* 652. (For policy questions regarding this collection contact Christa M. Zalewski at (410) 786–1971.)

Dated: December 13, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–27224 Filed 12–15–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Expedited OMB Review and Public Comment: Recordkeeping for New Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start

AGENCY: Office of Head Start, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: An Interim Final Rule with Comment Period (IFC) was published on November 30, 2021 that established the COVID–19 vaccination requirements whereby all Head Start staff, certain contractors, and volunteers must be vaccinated for COVID–19 by January 31, 2022. The Office of Head Start, Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting expedited review of an information collection request from the Office of Management and Budget (OMB) and inviting public comments on the following new recordkeeping requirements for Head Start programs: (1) Collect and maintain records on the vaccination status of staff, certain contractors, and volunteers in Head Start and Early Head Start programs, and (2) develop and maintain a written COVID–19 protocol for testing individuals granted vaccine exemptions including granting such exemptions.

We also invite comments on the impact of this new requirement on the current requirement for Head Start programs to maintain, including regularly update, program policies and procedures for personnel (associated burden approved under OMB #: 0970–0148).

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described in this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be submitted by emailing *infocollection@acf.hhs.gov.* All requests should identify the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ACF is requesting that OMB grant a 180-day approval for this request under procedures for expedited processing. A request for review under normal procedures will be submitted as soon as possible within 180 days of the approval for this request. This request is for recipients of Head Start funding to maintain records of staff (including certain contractors) and volunteer vaccination status to meet the new vaccine requirements and establish written COVID–19 testing protocols, as required by IFC: Title (86 FR 68052).

Additionally, programs are expected to update their program policies and procedures to ensure costs associated with regular testing for those granted an exemption are an allowable use of Head Start funds. The recordkeeping activity of maintaining program policies and procedures for personnel, including the associated burden with updating them on an annual basis, is approved under OMB Control Number 0970–0148. Since the new reporting requirement impacts these activities, we also invite public comment on these reporting requirements.

There is no standard instrument required to be used to meet these recordkeeping requirements.

Respondents: Recipients of Head Start funding.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Responses per respondent	Average annual burden hours	Annual burden hours
Staff and Volunteer Reporting of New Vaccination (one-time)	58,116	1	0.6667	38,744
Staff and Volunteer Reporting of Existing Vaccination (one-time)	924,000	1	0.0278	25,666.7
Staff and Volunteer Requesting an Exemption (one-time)	66,700	1	0.1667	11,116.7
Grant Recipient Maintaining Complete Records of Vaccination Status (ongoing)	1,573	1	4.2403	6,670
Grant Recipient Establishing COVID–19 Testing Protocol (one-time)	1,573	1	3.3333	5,243.3
Grant Recipient Maintaining COVID–19 Testing Protocol (ongoing)	1,573	1	1	1,573

Estimated Total Annual Burden Hours: We estimate the one-time and ongoing burden to maintain records on staff and volunteer vaccination rates and establish and maintain a written COVID–19 testing protocol will result in 89,013.7 total annual burden hours.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication. Comments will be considered and any necessary updates to materials made prior to, and responses provided in, the submission to OMB that will follow this public comment period.

(Authority: IFC [86 FR 68052])

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–27195 Filed 12–15–21; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Low Income Home Energy Assistance Program (LIHEAP) Performance Data Form (OMB #0970–0449)

AGENCY: Office of Community Services, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting reinstatement of the Low Income Home Energy Assistance Program (LIHEAP) Performance Data

Form (Office of Management and Budget (OMB) #0970–0449, expiration date March 31, 2021) with changes. Changes include additional reporting items to collect Module 2 (Performance Measures) data on the impacts of supplemental federal LIHEAP funds, and other minor changes to the most recent version of this 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. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The ACF Office of Community Services (OCS) within the U.S. Department of Health and Human Services (HHS) administers the Low Income Home Energy Assistance Program (LIHEAP) at the Federal level. The *LIHEAP Performance Data Form (LPDF)* is an annual report in response to Section 2610(b) of the LIHEAP statute (42 U.S.C. 8629(b)) which requires the Secretary of HHS to submit, no later than June 30 of each federal fiscal year, a report to Congress on LIHEAP for the prior federal fiscal year. The completeness, accuracy, consistency, and timeliness of responses to data collections are needed for HHS to do the following:

- Provide reliable and complete fiscal and household data to Congress in the Department's *LIHEAP Report to Congress* for the federal fiscal year; and
- Respond to questions from the Congress, Department, OMB, White House, and other interested parties in a timely manner; and report LIHEAP performance results as part of the Administration's annual Congressional Justification.

In response to the 2010 Government Accountability Office (GAO) report, *Low Income Home Energy Assistance Program—Greater Fraud Prevention Controls are Needed* (GAO–10–621), and in consideration of the recommendations issued by the LIHEAP Performance Measures Implementation Work Group, OCS required the collection and reporting of these performance measures by state LIHEAP grantees, including the District of Columbia. OMB approved the LIHEAP Performance Data Form (LPDF) in November 2014 (OMB Clearance No. 0970–0449) and approved continued collection using the form through March 31, 2021. This request will reinstate approval to collect information using the LPDF for another three years. The LPDF provides for the collection of the following LIHEAP performance measures which are considered to be developmental as part of the LPDF:

1. The benefit targeting index for high burden households receiving LIHEAP fuel assistance;
2. The burden reduction targeting index for high burden households receiving LIHEAP fuel assistance;
3. The number of households where LIHEAP prevented a potential home energy crisis; and
4. The number of households where LIHEAP benefits restored home energy.

All state LIHEAP grantees are required to complete the LPDF on an annual basis. The reporting requirements will be described through the LIHEAP Forms and Funding Applications page (*https://www.acf.hhs.gov/ocs/form/liheap-forms-and-funding-applications*) of ACF's website.

The previous OMB-approved LIHEAP Grantee Survey on sources and uses of LIHEAP funds was added in 2014 to the LPDF as an addition to the LIHEAP performance data. Additional items for separately reporting LIHEAP funds appropriated by the CARES Act (Pub. L. 116–136) were added in 2020.

ACF proposes additional changes for this data collection activity. These consist of (1) adding an item for reporting previous-year Residential Energy Assistance Challenge (REACH) funds in Module 1; (2) removing three reporting items from Module 1; (3) adding items to collect Module 2 (Performance Measures) data on the impacts of supplemental federal LIHEAP funds; and (4) minor wording or label changes.

The form is divided into the following modules to add clarity:

Module 1. LIHEAP Grantee Survey (Required Reporting)

Module 1 of the *LPDF* will continue to require the following data from each state for the federal fiscal year:

- Grantee information;
- Sources and uses of LIHEAP funds, by funding type;
- Average LIHEAP household benefits, by funding type; and
- Maximum income cutoffs for 4-person households for each type of LIHEAP assistance provided by each grantee for the fiscal year, by funding type.

Module 2. LIHEAP Performance Measures (Required Reporting)

Module 2 of the *LPDF* will continue to require the following data from each state for the federal fiscal year:

- Grantee information;
- Energy burden targeting;
- Restoration of home energy service; and
- Prevention of loss of home energy.

Module 2 has been revised to include three submodules: Module 2A will collect data on all households, Module 2B will collect data on the subset of households that received assistance from LIHEAP CARES Act funds, and Module 2C will collect data on the subset of households that received assistance from LIHEAP ARPA funds.

Module 3. LIHEAP Performance Measures (Optional Reporting)

Module 3 of the LIHEAP *LPDF* will continue to voluntarily collect the following additional information from each interested grantee for the federal fiscal year:

- Average annual energy usage;
- Unduplicated number of households using supplemental heating fuel and air conditioning;
- Unduplicated number of households that had restoration of home energy service, and
- Unduplicated number of households that had prevention of loss of home energy.

LIHEAP grantees will be able to compare their own results to the results for other states, as well as to regional and national results, through the Data Warehouse of the LIHEAP Performance Management website as they manage their programs.

ACF published a **Federal Register** notice on March 19, 2021 soliciting 60 days of public comment on the renewal of the LIHEAP Performance Data Form with minor changes and the continuation of requiring State grantees and the District of Columbia to collect the data collection annually. ACF received no comments on this notice. Following the publication of the 60-day **Federal Register** notice, new supplemental funds were awarded for LIHEAP. To allow ACF to report information on the impacts of the supplemental LIHEAP funds, ACF is

proposing updates to Module 2 to collect additional performance data related to supplemental LIHEAP funds.

Respondents: State governments, including the District of Columbia; the largest five electricity and natural gas vendors by state; the largest ten fuel oil and propane vendors by state; and state sub-grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Module 1 (Grantee Survey)				
State Grantees—Module I	51	1	36	1,836
Modules 2 and 3 (LIHEAP Performance Measures)				
State Grantees—Modules II and III	51	1	200	10,200
Sub-Grantees (in states with sub-grantee managed systems)—Modules II and III	100	1	8	800
Energy Vendors (largest 5 electric, 5 natural gas, 10 fuel oil, and 10 propane vendors per state-average)—Modules II and III	*1,530	1	8.5	13,005

*Estimate.

Estimated Total Annual Burden Hours: 25,841.

Authority: 42 U.S.C. 8629(b); 42 U.S.C. 8624(b); 42 U.S.C. 8623(c).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–27277 Filed 12–15–21; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; National Center on Law and Elder Rights-Resource Support and User Satisfaction; OMB# 0985–0060

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to the information collection requirements for the National Center on Law and Elder Rights-Resource Support and User Satisfaction [OMB# 0985–0060].

DATES: Submit written comments on the collection of information by January 18, 2022.

ADDRESSES: Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Room 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Aiesha Gurley, Administration for Community Living, Washington, DC 20201, (202) 795–7358 or by email: *Aiesha.Gurley@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

ACL is requesting approval to collect data for the National Center on Law and Elder Rights-Resource Support and User Satisfaction [OMB# 0985–0060]. ACL contracts with a national legal assistance resource center, the National Center on Law and Elder Rights, to provide the required services. Through the contract, ACL provides aging, disability, and related legal professionals with training, technical assistance, complex case consultations and support for demonstration projects regarding contractually identified priority legal topics. The purpose of the information requested is for ACL to ensure that the resource center creates and prioritizes the training, case consultations and technical assistance resources it was contracted to provide and to ensure that the center targets the contractually designated aging network practitioners about the priority subject matters.

This approach enables ACL to make data-informed decisions about the deployment of its resource center assets. These data are necessary for ACL to evaluate contractual compliance with established performance indicators.

These metrics include quantifiable increases in uptake by stakeholders of training, case consultation and technical assistance, and measures of satisfaction with and perceived benefit from these services. For example, the metrics measure successful problem resolution as a result of the services provided and quantifiable data on fulfillment of requests for training, technical assistance, and consultation related to the contractually designated legal and systems development topic areas. The information requested by ACL from legal and aging/disability professionals falls into the following areas: (1) Requests for training, case consultation, and technical assistance; (2) general requests for legal training (including the volume of webinar registrations), and case consultations.

Comments in Response to the 60-Day Federal Register Notice

A notice published in the **Federal Register** on, August 30, 2021 in 86 FR 48427. There were zero (0) public comments received during the response period for the 60-day notice.

Estimated Program Burden: The burden hours are calculated at *one (1) minute 42 seconds* for each respondent to make a request for training, case consultation, or technical assistance. ACL estimates a high end of *20,000* responses with burden hours totaling *700* hours, annually.

ACL estimates the burden associated with this collection of information as follows:

Respondent/data collection activity	Number of respondents	Minutes per response	Annual burden hours
Legal Training, Case Consultation, Technical Assistance Requests	20,000	1 min 42 sec	700
Outcome Measurement	5,000	1 min 3 sec	71.59
Total	25,000	4 min 39 sec	700

Dated: December 12, 2021.

Alison Barkoff,

Principal Deputy Administrator.

[FR Doc. 2021–27258 Filed 12–15–21; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0997]

Referencing the Definition of ''Device'' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Referencing the Definition of 'Device' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents.'' FDA is issuing this draft guidance to promote clarity regarding references to the terms ''device'' and ''counterfeit device'' in guidance, regulatory documents, communications, and other public documents. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by February 14, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–0997 for ''Referencing the Definition of 'Device' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents.'' 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)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a

single hard copy of the draft guidance document entitled ''Referencing the Definition of 'Device' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Eli Tomar, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5462, Silver Spring, MD 20993–0002, 240–893–1926, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

For many years, the definition of ''device'' has been codified at section 201(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act). As a result of the enactment of the Safeguarding Therapeutics Act (Pub. L. 116–304), the definition of ''device'' was redesignated as paragraph (h)(1) and a new definition of ''counterfeit device'' was codified at paragraph (h)(2) of section 201 of the FD&C Act.

FDA is issuing this draft guidance to clarify how the Agency intends to interpret existing references to section 201(h) of the FD&C Act and how we intend to reference the definitions of ''device'' and ''counterfeit device'' going forward. This guidance, when finalized, is intended to provide clarity on references to the terms ''device'' and ''counterfeit device''—as well as references to section 201(h) of the FD&C Act—in guidance, regulatory documents, and other communications and documents for FDA staff, industry, and other stakeholders.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Referencing the Definition of 'Device' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Referencing the Definition of 'Device' in the Federal Food, Drug, and Cosmetic Act in Guidance, Regulatory Documents, Communications, and Other Public Documents'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 21008 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27266 Filed 12–15–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Training and Primary Care Medicine and Dentistry

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Training and Primary Care Medicine and Dentistry (ACTPCMD) will hold public meetings for the 2022 calendar year (CY). Information about ACTPCMD, agendas, and materials for these meetings can be found on the ACTPCMD website at *https://www.hrsa.gov/advisory-committees/primarycare-dentist/index.html.*

DATES: ACTPCMD meetings will be held on:

- February 17, 2022, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and February 18, 2022, 10:00 a.m.–2:00 p.m. ET; and
- August 2, 2022, 10:00 a.m.–5:00 p.m. ET.

ADDRESSES: Meetings will be held virtually and by teleconference. No in-person meetings will be conducted in 2022. For updates on how the meetings will be held, visit the ACTPCMD website 30 business days before the date of the meeting, where instructions for joining meetings will be posted. For meeting information updates, go to the ACTPCMD website meeting page at *https://www.hrsa.gov/advisory-committees/primarycare-dentist/meetings.html.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The ACTPCMD provides advice and recommendations to the Secretary of Health and Human Services (Secretary) on policy, program development, and other matters of significance concerning the activities under Section 747 of Title VII of the Public Health Service (PHS) Act, as it existed upon the enactment of Section 749 of the PHS Act in 1998. ACTPCMD prepares an annual report describing the activities of the committee, including findings and recommendations made by the committee concerning the activities under Section 747, as well as training programs in oral health and dentistry. The annual report is submitted to the Secretary as well as the Chairman and ranking members of the Senate Committee on Health, Education, Labor and Pensions and the House of Representatives Committee on Energy and Commerce. The ACTPCMD develops, publishes and implements performance measures and guidelines for longitudinal evaluations of programs authorized under Title VII, Part C of the PHS Act, and recommends appropriation levels for programs under this Part. Since priorities dictate

meeting times, be advised that start times, end times, and agenda items are subject to change. For CY 2022 meetings, agenda items may include, but are not limited to, inter-professional team-based education, practice, and retention in underserved rural communities, as well as matters pertaining to policy, program development, and other matters of significance concerning medicine and dentistry activities authorized under the relevant sections of the PHS Act. Refer to the ACTPCMD website listed above for all current and updated information concerning the CY 2022 ACTPCMD meetings, including draft agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACTPCMD should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date(s). Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the meeting(s) they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–27262 Filed 12–15–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Council on Graduate Medical Education

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Council on Graduate Medical Education (COGME or Council) will hold public meetings for the 2022 calendar year (CY). Information about COGME, agendas, and materials for these meetings can be found on the COGME website at *https://www.hrsa.gov/advisory-committees/graduate-medical-edu/index.html.*

DATES: COGME meetings will be held on:

- March 24, 2022, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and March 25, 2022, 10:00 a.m.–2:00 p.m. ET; and
- September 12, 2022, 10:00 a.m.–5:00 p.m. ET.

ADDRESSES: Meetings will be held virtually and by teleconference. No in-person meetings will be conducted in 2022. For updates on how the meetings will be held, visit the COGME website 30 business days before the date of the meeting, where instructions for joining meetings will be posted. For meeting information updates, go to the COGME website meeting page at *https://www.hrsa.gov/advisory-committees/graduate-medical-edu/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The COGME provides advice and recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning the activities listed in section 762(a) of Title VII of the Public Health Service (PHS) Act. Issues addressed by COGME include the supply and distribution of the physician workforce in the United States, including any projected shortages or excesses; foreign medical school graduates; the nature and financing of undergraduate and graduate medical education; appropriation levels for certain programs under Title VII of the PHS Act; and deficiencies in databases of the supply and distribution of the physician workforce and postgraduate programs for training physicians. COGME submits reports to the Secretary of HHS; the Senate Committee on Health, Education, Labor and Pensions; and the House of Representatives Committee on Energy and Commerce. Additionally, COGME encourages entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council.

Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. For CY 2022 meetings, agenda items may include, but are not limited to, discussions on advancing health equity, addressing disparities in rural areas, enhancing the delivery of behavioral health and mental health care, and expanding the role of telehealth. Refer to the COGME website listed above for all current and updated information concerning the CY 2022 COGME meetings, including draft agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the COGME should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date(s).

Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the meeting(s) they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–27263 Filed 12–15–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Extended Clinical Trial (R01); NIAID Clinical Trial Planning Grants (R34 Clinical Trial Not Allowed).

Date: January 12, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of

Health, 5601 Fishers Lane, Room 3G58, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Anuja Mathew, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G58, Rockville, MD 20852, *anuja.mathew@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 13, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27260 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with a short public comment period at the end. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: May 10–11, 2022.

Closed: May 10, 2022, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Open: May 11, 2022, 10:00 a.m. to 1:00 p.m.

Agenda: Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth Santora, Ph.D., Director, Office of Extramural Activities, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *ksantora@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/about/naca,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 10, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27217 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Data Management.

Date: January 10, 2022.

Time: 12:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–496–9667, *nijaguna.prasad@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; REDI Career Development and Entrepreneurship Enhancement Award.

Date: February 15, 2022.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–480–1266, *neuhuber@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27259 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Immunity and aging.

Date: February 15, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway

Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–7428, *anita.undale@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel CITP.

Date: February 17, 2022.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 10, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27218 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: January 14, 2022.

Time: 11:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3185, Bethesda, MD 20892–6908 (Virtual Meeting).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700 B Rockledge Drive, Room 3185, Bethesda, MD 20892–6908, Telephone: 301–402–8837, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: December 12, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27215 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be held as a virtual meeting and is open to the public, as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: February 8, 2022.

Closed: 11:00 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Open: 12:45 p.m. to 5:00 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Susan R.B. Weiss, Ph.D., Director Division of Extramural Research, Office of the Director, National Institute on Drug Abuse, NIH, Three White Flint North, RM 09D08, 11601 Landsdown Street, Bethesda, MD 20852, 301–443–6480, *sweiss@nida.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 13, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27261 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with a short public comment period at the end. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: September 7–8, 2022.

Closed: September 07, 2022, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Open: September 08, 2022, 10:00 a.m. to 1:00 p.m.

Agenda: Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting)..

Contact Person: Kenneth Santora, Ph.D., Director, Office of Extramural Activities, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *ksantora@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/about/naca,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 10, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27216 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Behavioral and Social Sciences Research on Aging.

Date: February 10, 2022.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Carmen Moten, Ph.D., MPH Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Data Enhancements and Analyses Between Education and Cognitive Function.

Date: February 14, 2022.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Video Meeting).

Contact Person: Carmen Moten, Ph.D., MPH Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Multi-Component Projects in Aging Research.

Date: March 3, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Carmen Moten, Ph.D., MPH, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27280 Filed 12–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4610–DR; Docket ID FEMA–2021–0001]

California; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of California (FEMA–4610–DR), dated August 24, 2021, and related determinations.

DATES: This amendment was issued November 10, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 25, 2021.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27202 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0001]

Notice; Major Disaster Declarations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice; major disaster declarations.

SUMMARY: This notice amends the notices of major disaster declarations and related determinations resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, *dean.webster@fema.dhs.gov,* (202) 646–2833.

SUPPLEMENTARY INFORMATION: This notice applies to all major disaster

declarations and related determinations resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020. See detailed declarations list below.

Pursuant to the President's Memorandum on Maximizing Assistance to Respond to COVID–19, dated August 17, 2021, (86 FR 46759), and under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (Stafford Act), FEMA applied the following for all COVID–19 related declarations:

Federal funds for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program (Section 403) are authorized at 100 percent of total eligible costs for work performed from January 20, 2020 through December 31, 2021.

Also, pursuant to the President's Memorandum on Maximizing Assistance to Respond to COVID–19, dated November 9, 2021, (86 FR 64055), and under the authority of the Stafford Act, FEMA applies the following for all COVID–19 related declarations:

Federal funds for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program (Section 403) are authorized at 100 percent of total eligible costs for work performed from January 20, 2020 through April 1, 2022.

COVID–19 Declarations

- Notice; New York; Amendment No. 8 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4480–DR.
- Notice; Washington; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4481–DR.
- Notice; California; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4482–DR.
- Notice; Iowa; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4483–DR.
- Notice; Louisiana; Amendment No. 4 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4484–DR.
- Notice; Texas; Amendment No. 4 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4485–DR.
- Notice; Florida; Amendment No. 4 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4486–DR.
- Notice; North Carolina; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4487–DR.
- Notice; New Jersey; Amendment No. 8 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4488–DR.
- Notice; Illinois; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4489–DR.
- Notice; Missouri; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4490–DR.
- Notice; Maryland; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4491–DR.
- Notice; South Carolina; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4492–DR.
- Notice; Puerto Rico; Amendment No. 9 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4493–DR.
- Notice; Michigan; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4494–DR.
- Notice; Guam; Amendment No. 8 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4495–DR.
- Notice; Massachusetts; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4496–DR.
- Notice; Kentucky; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4497–DR.
- Notice; Colorado; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4498–DR.
- Notice; Oregon; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4499–DR.
- Notice; Connecticut; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4500–DR.
- Notice; Georgia; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4501–DR.
- Notice; District of Columbia; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4502–DR.
- Notice; Alabama; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4503–DR.
- Notice; Kansas; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4504–DR.
- Notice; Rhode Island; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4505–DR.
- Notice; Pennsylvania; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4506–DR.
- Notice; Ohio; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4507–DR.
- Notice; Montana; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4508–DR.
- Notice; North Dakota; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4509–DR.
- Notice; Hawaii; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4510–DR.
- Notice; Commonwealth of the Northern Mariana Islands; Amendment No. 8 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4511–DR.
- Notice; Virginia; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4512–DR.
- Notice; Virgin Islands; Amendment No. 9 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4513–DR.
- Notice; Tennessee; Amendment No. 5 to Notice of a Major Disaster

Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4514–DR.

- Notice; Indiana; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4515–DR.
- Notice; New Hampshire; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4516–DR.
- Notice; West Virginia; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4517–DR.
- Notice; Arkansas; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4518–DR.
- Notice; Wisconsin; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4520–DR.
- Notice; Nebraska; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4521–DR.
- Notice; Maine; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4522–DR.
- Notice; Nevada; Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4523–DR; Amendment No. 7.
- Notice; Arizona; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4524–DR.
- Notice; Utah; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4525–DR.
- Notice; Delaware; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4526–DR.
- Notice; South Dakota; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4527–DR.
- Notice; Mississippi; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4528–DR.
- Notice; New Mexico; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4529–DR.
- Notice; Oklahoma; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4530–DR.
- Notice; Minnesota; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4531–DR.
- Notice; Vermont; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4532–DR.
- Notice; Alaska; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4533–DR.
- Notice; Idaho; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4534–DR.
- Notice; Wyoming; Amendment No. 7 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4535–DR.
- Notice; American Samoa; Amendment No. 6 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4537–DR.
- Notice; Seminole Tribe of Florida; Amendment No. 3 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4545–DR.
- Notice; Navajo Nation; Amendment No. 5 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4582–DR.
- Notice; Poarch Band of Creek Indians; Amendment No. 3 to Notice of a Major Disaster Declaration; Docket ID FEMA–2021–0001; Internal Agency Docket No. FEMA–4591–DR.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27208 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4615–DR; Docket ID FEMA–2021–0001]

New York; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–4615–DR), dated September 5, 2021, and related determinations.

DATES: This amendment was issued December 1, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 5, 2021.

Orange County for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27203 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4619–DR; Docket ID FEMA–2021–0001]

California; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of California (FEMA–4619–DR), dated September 12, 2021, and related determinations.

DATES: This amendment was issued November 10, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 21, 2021.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27204 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4629–DR; Docket ID FEMA–2021–0001]

Connecticut; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Connecticut (FEMA–4629–DR), dated October 30, 2021, and related determinations.

DATES: This amendment was issued December 1, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Connecticut is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 30, 2021.

New Haven County for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27207 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4607–DR; Docket ID FEMA–2021–0001]

Michigan; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Michigan (FEMA–4607–DR), dated July 15, 2021, and related determinations.

DATES: This amendment was issued November 10, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Michigan is hereby amended to include Public Assistance for the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 15, 2021.

Ionia County for Public Assistance.

Wayne County for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27201 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3571–EM; Docket ID FEMA–2021–0001]

California; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of California (FEMA–3571–EM), dated September 1, 2021, and related determinations.

DATES: This amendment was issued November 10, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective October 21, 2021.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27199 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4625–DR; Docket ID FEMA–2021–0001]

New York; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–4625–DR), dated October 8, 2021, and related determinations.

DATES: This amendment was issued November 5, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 8, 2021.

Onondaga County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27205 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4626–DR; Docket ID FEMA–2021–0001]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4626–DR), dated October 22, 2021, and related determinations.

DATES: This amendment was issued November 16, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 22, 2021.

Adams, Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clarke, Clay, Coahoma, DeSoto, Forrest, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jones, Kemper, Lafayette, Lamar, Lauderdale, Leake, Lee, Leflore, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Perry, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Warren, Washington, Webster, Winston, Yalobusha, and Yazoo Counties for emergency protective measures (Category B), including direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27206 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4586–DR; Docket ID FEMA–2021–0001]

Texas; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4586–DR), dated February 19, 2021, and related determinations.

DATES: This amendment was issued November 12, 2021.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 19, 2021.

Archer, Coleman, and Fayette Counties for debris removal [Category A] and permanent work [Categories C–G] under the Public Assistance program (already designated for emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

Bexar, Brazos, Caldwell, Comal, Galveston, Jones, and Kendall Counties for debris removal [Category A] and permanent work [Categories C–G] under the Public Assistance program (already designated for Individual Assistance and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

Brazos and Jones Counties for snow assistance under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–27200 Filed 12–15–21; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2021–0043]

Homeland Security Science and Technology Advisory Committee; Correction

AGENCY: Science and Technology Directorate, DHS.

ACTION: Committee management; notice of Federal Advisory Committee charter re-establishment; correction.

SUMMARY: The Department of Homeland Security (DHS) is correcting a notice published in the **Federal Register** on November 1, 2021 regarding then re-establishment of the Homeland Security Science and Technology Advisory Committee (HSSTAC). The notice listed incorrect effective and expiration dates for the HSSTAC charter. The correct effective date for the charter should be November 23, 2021 and the correct expiration date should be November 23, 2023.

FOR FURTHER INFORMATION CONTACT: Adam Cox, HSSTAC Executive Director, and Stanley Cunningham, HSSTAC Designated Federal Official, S&T Department of Homeland Security, *hsstac@hq.dhs.gov,* 202–878–1455.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of November 1, 2021, at FR Doc 2021–23651, on page 60268, in the third column, replace the date ''November 15, 2021'' with the date ''November 23, 2021'' and replace the date ''November 15, 2023'' with the date ''November 23, 2023.''

Dated: December 13, 2021.

Stanley Cunningham,

Designated Federal Official for the HSSTAC.

[FR Doc. 2021–27275 Filed 12–15–21; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

[Docket Number– DHS–2021–0052]

Agency Information Collection Activities: Office of the Citizenship and Immigration Services Ombudsman Request for Case Assistance Form (DHS Form 7001)

AGENCY: Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; extension of a currently approved collection, 1601–0004.

SUMMARY: The Department of Homeland Security will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until February 14, 2022. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number Docket # DHS–2021–0052, at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number Docket # DHS–2021–0052. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: The Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) was created under section 452 of the Homeland Security Act of 2002 (Pub. L. 107–296) to: (1) Assist individuals and employers in resolving problems with U.S. Citizenship and Immigration Services (USCIS); (2) to identify areas in which individuals and employers have problems in dealing with USCIS; and (3) to the extent possible, propose changes in the administrative practices of USCIS to mitigate problems. This form is used by an individuals and employers who are experiencing problems with USCIS during the processing of an immigration benefits.

The CIS Ombudsman collects and processes requests for case assistance electronically on the DHS Form 7001 through the Case Assistance Analytics and Data Integration (CAADI) system. Per Paperwork Reduction Act (PRA) requirements, a fillable PDF version of the form is also provided on the CIS Ombudsman's website. The PDF form may be completed online, printed and emailed or mailed to the CIS Ombudsman's office as indicated on the form. It is noted on the form that using the paper method may delay the processing time. After approval of the changes to the form as detailed below, the online form will be updated and posted on the CIS Ombudsman's website at *http://www.dhs.gov/case-assistance* for electronic submission of the form.

Summary of proposed form changes:

a. *To save time for the customer:*

a. New and improved instructions make it clear when it is appropriate to submit a request for case assistance and who can submit a request.

b. New instructions were added to the beginning of each section of the form; previously they were listed on a separate form.

b. *To reduce processing time:*

a. Form sections were re-ordered (see below) and expanded to obtain more information up front and in a logical order.

b. Enhanced instructions clarify the supporting documentation needed to submit along with the form to reduce the number of times customers are asked to provide additional documentation.

The revised DHS Form 7001 includes these re-ordered and named sections; 3 new sections are indicated in bold:

1. Actions Taken with USCIS for Resolution
   a. Other Actions Taken
2. Reasons for Requesting Case Assistance
3. Applications/Petitions Filed
4. Type of Benefit Sought
5. Name of Applicant or Petitioner
6. Contact Information
7. Identification
8. Supporting Documentation
9. Consent for Applicant/Petitioner
10. Consent for Attorney/Accredited Representative
11. Consent for Family Member Applicants
12. Beneficiary Information for Employment-Based Petitions

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting the electronic submission of responses.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Office of the Citizenship and Immigration Services Ombudsman Request for Case Assistance (DHS Form 7001).

OMB Number: 1601–0004.

Frequency: Annually.

Affected Public: Members of the Public.

Number of Respondents: 18,000.

Estimated Time per Respondent: 1 Hour.

Total Annual Reporting Burden Hours: 18,000.

Robert Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2021–27250 Filed 12–15–21; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–71; OMB Control No: 2528–New]

30-Day Notice of Proposed Information Collection: Older Adult Home Modification Evaluation

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* January 18, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 14, 2021 at 86 FR 51178.

A. Overview of Information Collection

Title of Information Collection: Older Adult Home Modification Evaluation.

OMB Approval Number: 2528–New.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: Congress authorized HUD to make grants to experienced non-profit organizations, States, local governments, or public housing agencies for safety and functional home modification repairs to meet the needs of low-income elderly homeowners to enable them to remain in their primary residence. This information collection supports HUD's evaluation on the effectiveness of the grants. HUD will both evaluate grantee implementation and the impact of the modification on the client recipients whose homes are modified.

TABLE 6—ESTIMATED TIME AND COSTS TO GRANTEE RESPONDENTS [f]

Information collected	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Burden hours per annum	Hourly cost per response	Annual cost
Client Eligibility Documentation Form [a]	4,478	1	4,478	0.08	358	$33.46	$11,987
Lost-to-Project Form [b]	2,790	1	2,790	0.08	223	33.46	7,468
OAHM Program Documentation of Work Completed Form [c]	2,250	1	2,250	0.50	1,125	33.46	37,643
Grantee Process Evaluation Online Survey Year 1 [d]	32	1	32	4.00	128	33.46	4,283

TABLE 6—ESTIMATED TIME AND COSTS TO GRANTEE RESPONDENTS [f]—Continued

Information collected	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Burden hours per annum	Hourly cost per response	Annual cost
Grantee Site Visit Interview Guide [e]	5.3	2	10.6	2.00	21	33.46	709
Total Annual			9,560.60	6.66	1,856		62,090
Total over 3 Years				20.00	5,568		186,270

[a] Grantees are expected to complete the Client Eligibility Documentation form for all applicants, an estimated total of 13,433 forms over the three-year period of the OAHMP grant, or approximately 4,478 per year. This estimate is calculated based upon the assumption that 33% of applicants (approximately 4,433) will be determined ineligible for the program, and the $30 million in funding for the program will deliver home modifications to 9,000 eligible clients at an estimated average cost of $3,000 per home.

[b] Grantees are required to complete forms for all cases lost to the evaluation, estimated at 2,790 forms per year. This total reflects the three categories of lost to follow-up from the 4,478 estimated applicants per year: (1) 33% (~1,478) expected to be determined ineligible; (2) an additional 25% (~750) expected to decline to participate in the evaluation; and (3) an additional 25% (~562) expected to be lost to project follow up by the end of the evaluation period.

[c] Of the 3,000 clients per year, 75% (~2,250) are expected to sign the Informed Consent to participate in the evaluation.

[d] One PM from each of up to 32 grantees will complete the Grantee Process Evaluation Online Survey annually.

[e] The Contractor will administer the Grantee Site Visit Interview Guide to up to two grantee representatives during up to 16 site visits.

[f] Numbers may not sum due to rounding.

TABLE 7—ESTIMATED TIME AND COSTS TO CLIENT RESPONDENTS [f]

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Burden hours per annum	Hourly cost per response	Annual cost
OAHM Client Program Questionnaire (Baseline) [a]	3,000	1	3,000	0.10	300	$11.31	$3,393
OAHM Client Program Questionnaire (Post-modification) [c]	1,688	1	1,688	0.10	169	11.31	1,909
OAHM Program Evaluation Informed Consent [b]	2,250	1	2,250	0.25	563	11.31	6,362
Home Hazard Checklist (Baseline) [a]	3,000	1	3,000	0.42	1260	11.31	14,251
Home Hazard Checklist (Post-modification) [c]	1,688	1	1,688	0.42	709	11.31	8,018
OAHM Client Impact Evaluation Interview (Baseline) [b]	2,250	1	2,250	0.33	743	$11.31	$8,398
OAHM Client Impact Evaluation Interview (Post-modification) [c]	1,688	1	1,688	0.33	557	11.31	6,300
Script to Schedule Client Process Evaluation Interview [e]	188	1	188	0.08	15	11.31	170
Client Process Evaluation Interview [d]	169	1	169	0.50	85	11.31	956
Total Annual			15,921	2.53	4,399		49,757
Total Over 3 Years				7.59	13,197		149,271

[a] The program is expected to deliver home modifications to 9,000 eligible clients over the three-year period, or 3,000 clients per year. The Client Program Questionnaire will be administered and Home Hazard Checklist conducted prior to home modification being implemented (*i.e.,* at baseline).

[b] Of the 3,000 clients per year, 75% (2,250) are expected to sign the Informed Consent to participate in the evaluation. The Client Impact Evaluation Interview will administered once consent is granted (*i.e.,* at baseline).

[c] Of the 2,250 participating clients per year, 75% (1,688) are expected to remain in the project to receive home modifications. After home modifications are complete, the Client Program Questionnaire will be re-administered, the Home Hazard Checklist will be conducted again, and the Client Impact Evaluation Interview will be repeated (*i.e.,* post-modification).

[d] Of the annual 1,688 clients who complete the program, 10% (169) will be interviewed about the process.

[e] 10% of those contacted for the process interview are expected to decline; to interview 169 clients, the Contractor expects to need to contact 188 clients.

[f] Numbers may not sum due to rounding.

ESTIMATED COMBINED TIME AND COSTS

	Annualized total grantee	Annualized total client	Annualize total combined	Total number of years	Total over three years
Hours	1,856	4,399	6,255	3	18,765
Costs	$62,090	$49,757	$111,847	3	$335,541

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–27211 Filed 12–15–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–72]

30-Day Notice of Proposed Information Collection: Voucher Management System (VMS); OMB Control No.: 2577–0282

AGENCY: Office of the Chief Information Officer, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: January 18, 2022.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 20, 2021, at 86 FR 46863.

A. Overview of Information Collection

Title of Information Collection: Voucher Management System (VMS).

OMB Approval Number: 2577–0282.

Type of Request: Revision of a previously approved collection.

Form Number: HUD- 52672, 52681, 52681–B, 52663 and 52673.

Public Housing Agencies (PHAs) that administer the Housing Choice Voucher (HCV) Program are required to maintain financial reports in accordance with accepted accounting standards in order to permit timely and effective audits. The HUD–52672 (Supporting Data for Annual Contributions Estimates Section 8 Housing Assistance Payments Program) and 52681 (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program) financial records identify the amount of annual contributions that are received and disbursed by the PHA and are used by PHAs that administer the five-year Mainstream Program, MOD Rehab, and Single Room Occupancy. Form HUD–52663 (Suggested Format for Requisition for Partial Payment of Annual Contributions Section 8 Housing Assistance Payments Program) provides for PHAs to indicate requested funds and monthly amounts. Form HUD–52673 (Estimate of Total Required Annual Contributions Section 8 Housing Assistance Payments Program) allows PHAs to estimate their total required annual contributions. The required financial statements are similar to those prepared by any responsible business or organization. The automated form HUD–52681–B (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program Supplemental Reporting Form) is entered by the PHA into the Voucher Management System (VMS) on a monthly basis during each calendar year to track leasing and Housing Assistance Payments (HAP) expenses by voucher category, as well as data concerning fraud recovery, Family Self-Sufficiency escrow accounts, PHA-held equity, etc. The inclusion, change, and deletion of the fields will improve the allocation of funds and allow the PHAs and the Department to realize a more complete picture of the PHAs' resources and program activities, promote financial accountability, and improve the PHAs' ability to provide assistance to as many households as possible while maximizing budgets. In addition, the fields will be crucial to the identification of actual or incipient financial problems that will ultimately affect funding for program participants. The automated form HUD–52681–B is also utilized by the same programs as the manual forms.

Description of the need for the information and proposed use: The Voucher Management System (VMS) supports the information management needs of the Housing Choice Voucher (HCV) Program and management functions performed by the Financial Management Center (FMC) and the Financial Management Division (FMD) of the Office of Public and Indian Housing and the Real Estate Assessment Center (PIH–REAC). This system's primary purpose is to provide a central system to monitor and manage the Public Housing Agency (PHAs) use of vouchers and expenditure of program funds and is the base for budget formulation and budget implementation. The VMS collects PHAs' actual cost data that enables HUD to perform and control cash management activities; the costs reported are the base for quarterly HAP and Fee obligations and advance disbursements in a timely manner, and reconciliations for overages and shortages on a quarterly basis.

Respondents: Public Housing Authorities (PHA).

Estimated Number of Respondents: 2,185.

Estimated Number of Responses: 26,980.

Frequency of Response: monthly.

Average Hours per Response: 2.

Total Estimated Burdens: 53,580.

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Financial Forms (HUD–52681–B)	2,185	12	26,220	2	52,440
HUD–52681	190	1	190	1.5	285
HUD–52663	190	1	190	1.5	285
HUD–52672	190	1	190	1.5	285
HUD–52673	190	1	190	1.5	285
Totals	2,185	varies	26,980	varies	53,580

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–27177 Filed 12–15–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM920000 212L1109AF L13100000.PP0000]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases NMNM 117118, NMNM 112270, NMNM 112271, NMNM 113394, NMNM 137424, NMNM 137425, NMNM 137426, NMNM 137427, NMNM 137428, NMNM 137431, NMNM 137481, NMNM 119745, NMNM 130865, NMNM 137440, NMNM 137441, NMNM 137442, NMNM 137443, NMNM 137459, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Mineral Leasing Act of 1920 as amended, Chevron USA, Inc. (NMNM 117118), WTG Exploration, Inc. (NMNM 112270, NMNM 112271), OXY Y–1 Company and Tap Rock Resources, LLC (NMNM 113394), Federal Abstract Co. (NMNM 137424, NMNM 137425, NMNM 137426, NMNM 137427, NMNM 137428, NMNM 137431, NMNM 137440, NMNM 137441, NMNM 137442, NMNM 137443), Blackbeard Operating, LLC (NMNM 137481), St. Devote, LLC (NMNM 119745), Platform Energy III, LLC (NMNM 130865), and Slash Exploration, LP (NMNM 137459) timely filed a petition for reinstatement of competitive oil and gas leases NMNM 117118, NMNM 112270, NMNM 112271, NMNM 113394, NMNM 137424, NMNM 137425, NMNM 137426, NMNM 137427, NMNM 137428, NMNM 137431, NMNM 119745, NMNM 130865 in Eddy, Lea, Chaves, and Roosevelt counties, New Mexico. The lessees paid the required rentals accruing from the date of termination. No leases were issued that affect these lands. The Bureau of Land Management proposes to reinstate these leases.

FOR FURTHER INFORMATION CONTACT: Julieann Serrano, Supervisory Land Law Examiner, Branch of Adjudication, Bureau of Land Management New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508, (505) 954–2149, *jserrano@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessees agree to new lease terms for rentals and royalties of $10 per acre, or fraction thereof, per year, and 16⅔ percent, respectively. The lessees agree to additional or amended stipulations. The lessees paid the $500 administration fee for the reinstatement of the leases and $159 cost for publishing this Notice.

The lessees met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920. The BLM is proposing to reinstate the leases, effective the date of termination subject to the:

- Original terms and conditions of the lease;
- Additional and amended stipulations;
- Increased rental of $10 per acre;
- Increased royalty of 16⅔ percent; and
- $159 cost of publishing this Notice.

Authority: 43 CFR 3108.2–3.

Julieann Serrano,

Supervisory Land Law Examiner.

[FR Doc. 2021–27270 Filed 12–15–21; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Update With Changes, of a Previously Approved Collection Which Expires November, 2021: Department of Justice Equitable Sharing Agreement and Certification

AGENCY: Money Laundering and Asset Recovery Section, Criminal Division, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Money Laundering and Asset Recovery Section, Criminal Division, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 30 days until January 18, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Update with changes, of the Department of Justice Equitable Sharing Agreement and Certification, a previously approved collection for which approval will expire on November 30, 2021.

2. *The Title of the Form/Collection:* Department of Justice Equitable Sharing Agreement and Certification.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is not an agency form number. The applicable component within the Department of Justice is the Money Laundering and Asset Recovery Section (''MLARS''), in the Criminal Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The Attorney General is required by statute to ''assure that any property transferred to a State or local law enforcement agency . . . will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.'' 21 U.S.C. 881(e)(3). MLARS ensures such cooperation by requiring that all such ''equitably shared'' funds be used only for law enforcement purposes and not be distributed to other governmental agencies by the recipient law enforcement agencies. By requiring that law enforcement agencies that participate in the Equitable Sharing Program (Program) file an Equitable Sharing Agreement and Certification (ESAC), MLARS can readily ensure compliance with its statutory obligations.

The ESAC requires information regarding the receipt and expenditure of Program funds from the participating agency. Accordingly, it seeks information that is exclusively in the hands of the participating agency.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 6,000 state and local law enforcement agencies electronically file the ESAC annually with MLARS. It is estimated that it takes 30 minutes per year to enter the information. All of the approximately 6,000 agencies must fully complete the form each year to maintain compliance and continue participation in the Department of Justice Equitable Sharing Program.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 3,000 hours. It is estimated that respondents will take 30 minutes to complete the form. (6,000 participants × 30 minutes = 3,000 hours).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: December 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–27268 Filed 12–15–21; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

[OMB 1105–0119]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension

AGENCY: Security and Emergency Planning Staff, Justice Management Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Security and Emergency Planning Staff (SEPS), Justice Management Division, Department of Justice, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 14, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Karen Daniels at 202–514–2351, Security and Emergency Planning Staff, 145 N Street NE, Suite 2W.507, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:
—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Security and Emergency Planning Staff, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension.

2. *The Title of the Form/Collection:* Department Personnel Security Reporting Requirements, iReport Forms and PDF Fillable Forms:

a. *Self-Reporting of Arrests*

b. *Self-Reporting of Allegations of Misconduct*

c. *Self-Reporting of Personal Foreign Travel*

d. *Self-Reporting of Contact with Foreign Nationals*

e. *Self-Reporting of Possession/ Application for Foreign Passport or Identity Card*

f. *Self-Reporting on Other Foreign Matters*

g. *Self-Reporting of Roommate/ Cohabitant/Marriage*

h. *Self-Reporting of Alcohol or Drug Related Addiction or Treatment*

i. *Self-Reporting of Attempted Elicitation, Exploitation, Blackmail, Coercion or Enticement to Obtain Information*

j. *Self-Reporting of Financial Issues/ Delinquencies*

k. *Self-Reporting of Unofficial Contact with the Media*

l. *Reportable Activities of Other Covered Personnel*

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* iReport and Fillable PDF Forms for each item in No. 2 above.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals.

Individuals who are contractors for the Department of Justice or who are processed for access to classified information by the Department of Justice.

Abstract: Self-reporting requirements set forth in the Department of Justice (DOJ) Policy Statement 1700.04, *Department Personnel Security Reporting Requirements,* issued April 18, 2018, apply to non-federal employee personnel affiliated with the DOJ. The policy contains reporting requirements that are applicable to the entire DOJ workforce as well as reporting requirements that apply only to personnel occupying a national security position or who have access to classified information. The requirements relating to national security are mandated by the Director of National Intelligence as the Security Executive Agent. The majority of the reports relate to the submitter's personal conduct and activities. There is one form for personnel to submit information on other personnel, consistent with government-wide reporting requirements. This collection request seeks approval for contractors and other non-federal employees who are processed for access to classified information to utilize the Department's automated reporting system called *i*Report, or, for the small population with no access to the IT system, to utilize PDF fillable forms to report the required information. The Security and Emergency Planning Staff, and other Department Security Offices, will use the reported information to determine the submitter's continued fitness for employment at the Department of Justice or continued eligibility for access to national security information. The Department security offices for each agency component will review, evaluate, and adjudicate the information received.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. Department-wide population covered by the requirement to self-report information in the forms listed in Sections 2a and 2b is estimated at 57,744. It is estimated that only three percent (1,732) will actually need to self-report.

b. Department-wide population covered by the requirement to report information in the forms listed in Sections 2c through 2l is estimated to be 604.

c. Amount of time estimated for an average reported is less than ten minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* 389 annual burden hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 13, 2021.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–27265 Filed 12–15–21; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

[OMB 1140–NEW]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; New Information Collection; Request for Temporary Eligibility To Hold a Sensitive Position—ATF Form 8620.69

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until February 14, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, contact Lakisha Gregory, Chief, Personnel Security Division, by mail at 99 New York Avenue NE, Mail Stop 1.E–300, Washington, DC 20226, email at *Lakisha.Gregory@atf.gov,* or telephone at 202–648–9260.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83)*: New collection.

2. *The Title of the Form/Collection:* Request for Temporary Eligibility to Hold a Sensitive Position.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 8620.69.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): None.

Abstract: The Request for Temporary Eligibility to Hold a Sensitive Position—ATF Form 8620.69 will be used to determine if a candidate for Federal or contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives can be granted a temporary eligibility to hold a sensitive position prior to the completion and adjudication their full background investigation.

5. *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: An estimated 2,000 respondents will prepare explosives transaction records for this collection once annually, and it will take each respondent approximately 5 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 167 hours, which is equal to 2,000 (total respondents) * 1 (# of response per respondent) * .833333 (5 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3E.405A, Washington, DC 20530.

Dated: December 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–27267 Filed 12–15–21; 8:45 am]

BILLING CODE 4410–CFY–P

DEPARTMENT OF JUSTICE

U.S. Marshals Service

[OMB Number 1105–0097]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Previously Approved Collection Leased/Charter/ Contract Personnel Expedited Clearance Request

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service (USMS), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 14, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Nicole Timmons either by mail at CG–3, 10th Floor, Washington, DC 20530–0001, by email at *Nicole.Timmons@usdoj.gov,* or by telephone at 202–236–2646.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This information Collection

1. *Type of Information Collection (check justification or form 83):* Extension without change of a previously approved collection.

2. *The Title of the Form/Collection:* Leased/Charter/Contract Personnel Expedited Clearance Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): USM–271.

Component: U.S. Marshals Service, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): [None].

Abstract: This form is to be completed by people applying to become contract personnel. It is required so that USMS can perform an expedited background check before workers may be hired to transport USMS and Bureau of Prisons prisoners.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 180 respondents will utilize the form, and it will take each respondent approximately 5 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 15 hours. It is estimated that applicants will take 5 minutes to complete a Form USM–271. In order to calculate the public burden for Form USM–271, USMS multiplied 5 by 180 and divided by 60 (the number of minutes in an hour), which equals 15 total annual burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–27276 Filed 12–15–21; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Form ETA–9127, Foreign Labor Certification Quarterly Activity Report

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's (Department) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the Information Collection Request (ICR), titled ''ETA–9127, Foreign Labor Certification Quarterly Activity Report.'' This action seeks an extension of the collection without changes. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 14, 2022.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Brian Pasternak, Administrator, Office of Foreign Labor Certification, by

telephone at 202–693–8200 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *ETA.OFLC.Forms@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by email at *ETA.OFLC.Forms@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202–693–8200 (this is not a toll-free number) or by email at *ETA.OFLC.Forms@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Under the foreign labor certification programs administered by ETA, SWAs are funded through annually reimbursable grants. These grants fund certain activities that support the processing of applications for temporary labor certification filed by U.S. employers in order to hire foreign workers in the H–2B or H–2A visa categories to perform nonagricultural or agricultural services or labor. Under the grant agreements, SWAs must review and transmit, through the intrastate and interstate systems, job orders submitted by employers in order to recruit U.S. workers prior to filling the job openings with foreign workers. In order to effectively monitor the administration of foreign labor certification activities by the SWAs, the Department requires the SWAs to report their workloads related to these activities on a quarterly basis. This collection of information is conducted through the Form ETA–9127, *Foreign Labor Certification Quarterly Activity Report.* This report is critical for ensuring accountability and for future program management, including budget and workload management.

The current ICR expires September 22, 2022. The Department seeks to extend, without changes, the validity of the Form ETA–9127 and the instructions that accompany the form. This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection unless OMB, under the PRA, approves it and the collection tool displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0457.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The Department encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without Changes.

Title of Collection: Form ETA–9127, *Foreign Labor Certification Quarterly Activity Report.*

OMB Control Number: 1205–0457.

Affected Public: State, Local or Tribal Governments.

Forms: Foreign Labor Certification Quarterly Activity Report, Form ETA–9127; *Foreign Labor Certification Quarterly Activity Report, Instructions for Completing the Form ETA–9127.*

Total Estimated Number of Annual Respondents: 54.

Frequency: Quarterly.

Total Estimated Annual Responses: 216.

Average Time per Response: 1 hour and 45 minutes.

Total Estimated Annual Time Burden: 378 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–27191 Filed 12–15–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Information Advisory Council; Meeting

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of virtual meetings January 12, and February 8, 2022.

SUMMARY: Notice is hereby given that the Workforce Information Advisory Council (WIAC or Advisory Council) will meet for two days, virtually. Information for public attendance at the virtual meetings will be posted at *www.dol.gov/agencies/eta/wioa/wiac/meetings* several days prior to each meeting date. The meetings will be open to the public.

DATES: The meetings will take place January 12, and February 8, 2022. Each meeting will begin at 12:00 p.m. EST and conclude at approximately 4:00 p.m. EST. Public statements and requests for special accommodations or to address the Advisory Council must be received by January 10, 2022 for the January 12, 2022 meeting, and by February 4, 2022 for the February 8, 2022 meeting.

ADDRESSES: Information for public attendance at the virtual meetings will be posted at *www.dol.gov/agencies/eta/wioa/wiac/meetings* several days prior to each meeting date. If problems arise accessing the meetings, please contact Donald Haughton, Unit Chief in the Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, at 202–693–2784.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of

National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–4510, 200 Constitution Ave. NW, Washington, DC 20210; Telephone: 202–693–3912; Email: *WIAC@dol.gov.* Mr. Rietzke is the WIAC Designated Federal Officer.

SUPPLEMENTARY INFORMATION:

Background: These meetings are being held pursuant to Sec. 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) (Pub. L. 113–128), which amends Sec. 15 of the Wagner-Peyser Act of 1933 (29 U.S.C. 491–2). The WIAC is an important component of the WIOA. The WIAC is a federal advisory committee of workforce and labor market information experts representing a broad range of national, State, and local data and information users and producers. The WIAC was established in accordance with provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.) and will act in accordance with the applicable provisions of FACA and its implementing regulation at 41 CFR 102–3. The purpose of the WIAC is to provide recommendations to the Secretary of Labor (Secretary), working jointly through the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, to address: (1) The evaluation and improvement of the nationwide workforce and labor market information (WLMI) system and statewide systems that comprise the nationwide system; and (2) how the Department and the States will cooperate in the management of those systems. These systems include programs to produce employment-related statistics and State and local workforce and labor market information.

The Department of Labor anticipates the WIAC will accomplish its objectives by: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development. Additional information is available at *www.dol.gov/agencies/eta/wioa/wiac/meetings.*

Purpose: The WIAC is currently in the process of identifying and reviewing issues and aspects of the WLMI system and statewide systems that comprise the nationwide system and how the Department and the States will cooperate in the management of those systems. As part of this process, the Advisory Council meets to gather information and to engage in deliberative and planning activities to facilitate the development and provision of its recommendations to the Secretary in a timely manner.

Agenda: The agenda topics for the January 12, 2022 meeting are: (1) Review and approve minutes from the previous meeting, (2) review and discuss the sub-committee work on identifying and collecting information that facilitates effective matching between employers and job seekers, (3) develop a set of recommendations regarding the topic specified above, (4) comment period for the general public, and (5) other business as needed, which may include a continued discussion on the ''Build Back Better'' bill. The agenda topics for the February 8, 2022 meeting are: (1) Review and approve minutes from the previous meeting, (2) consider and discuss the draft recommendations from the three sub-committees, (3) develop a final set of recommendations regarding the topics studied by the three sub-committees, (4) comment period for the general public, and (5) other business as needed. A detailed agenda will be available at *www.dol.gov/agencies/eta/wioa/wiac/meetings* shortly before the meetings commence.

The Advisory Council will open the floor for public comment at approximately 2:30 p.m. EST on both meeting dates for approximately 15 minutes. However, that time may change at the WIAC chair's discretion.

Attending the meetings: Members of the public who require reasonable accommodations to attend any of the meetings may submit requests for accommodations via email to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''January-February 2022 WIAC Meeting Accommodations'' by the date indicated in the **DATES** section. Please include a specific description of the accommodations requested and phone number or email address where you may be contacted if additional information is needed to meet your request.

Public statements: Organizations or members of the public wishing to submit written statements may do so by mailing them to the person and address indicated in the **FOR FURTHER INFORMATION CONTACT** section by the date indicated in the **DATES** section or transmitting them as email attachments in PDF format to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''January-February 2022 WIAC Meeting Public Statements'' by the date indicated in the **DATES** section. Submitters may include their name and contact information in a cover letter for mailed statements or in the body of the email for statements transmitted electronically. Relevant statements received before the date indicated in the **DATES** section will be included in the record of each meeting. No deletions, modifications, or redactions will be made to statements received, as they are public records. Please do not include personally identifiable information in your public statement.

Requests to Address the Advisory Council: Members of the public or representatives of organizations wishing to address the Advisory Council should forward their requests to the contact indicated in the **FOR FURTHER INFORMATION CONTACT** section, or contact the same by phone, by the date indicated in the **DATES** section. Oral presentations will be limited to 5–7 minutes, time permitting, and shall proceed at the discretion of the Advisory Council chair. Individuals with disabilities, or others who need special accommodations, should indicate their needs along with their request.

Angela Hanks,

Acting Assistant Secretary for Employment and Training Administration.

[FR Doc. 2021–27189 Filed 12–15–21; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (21–086)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Rescindment of a system of records.

SUMMARY: The National Aeronautics and Space Administration is issuing public notice of its proposal to cancel its previously noticed system of records, Equal Opportunity Records/NASA 10EEOR. The records of this system are maintained for the purpose of counseling, investigating and adjudicating complaints of employment discrimination brought by applicants and current and former federal employees against NASA.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, Mary W. Jackson NASA Headquarters, Washington, DC 20546–0001, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: NASA has determined that that this system notice is duplicative of the government wide system of records notice, EEOC/GOVT1, Equal Employment Opportunity in the Federal Government Complaint and Appeals Records. NASA will continue to maintain these records, but they are properly and adequately covered by EEOC/GOVT1.

SYSTEM NAME AND NUMBER:

Equal Opportunity (EO) Records, NASA 10EEOR.

HISTORY:

(15–117, 80 FR 246, pp. 79947–79949)

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2021–27176 Filed 12–15–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; DUE Project Data Form

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: DUE Project Data Form.

OMB Control No.: 3145–0201.

Abstract: The Division of Undergraduate Education (DUE) Project Data Form is a component of all grant proposals submitted to NSF's Division of Undergraduate Education. This form collects information needed to direct proposals to appropriate reviewers and to report the estimated collective impact of proposed projects on institutions, students, and faculty members. Requested information includes the discipline of the proposed project, collaborating organizations involved in the project, the academic level on which the project focuses (*e.g.,* lower-level undergraduate courses, upper-level undergraduate courses), characteristics of the organization submitting the proposal, special audiences (if any) that the project would target (*e.g.,* women, underrepresented minorities, persons with disabilities), strategic foci (if any) of the project (*e.g.,* research on teaching and learning, international activities, integration of research and education), and the number of students and faculty at different educational levels who would benefit from the project.

Respondents: Investigators who submit proposals to NSF's Division of Undergraduate Education.

Estimated Number of Annual Respondents: 2,550.

Burden on the Public: 20 minutes (per response) for an annual total of 850 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: December 13, 2021.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2021–27279 Filed 12–15–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 18, 2022. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, at the above address, 703–292–8030.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as

directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2022–026

1. *Applicant:* Captain Brandon Savory, 662 Ash St., Prescott AZ, 86305.

Activity for Which Permit is Requested: Waste management. The applicant seeks an Antarctic Conservation Act permit for a planned yacht-based expedition to the Antarctic Peninsula Region aboard the vessel *Cool Changes.* Activities include shore landings, photography, and wildlife viewing. Designated pollutants that would be generated during the trip include air emissions, wastewater (urine, grey water) and solid waste (food waste, human solid waste, and packaging materials). Human waste and grey water will be kept onboard for disposal at port. If disposal at sea is necessary during the voyage, these wastes would be disposed of in offshore waters, complying with the provisions of Article 5 of Annex III and Article 6 of Annex IV of MARPOL Protocol. Food waste will either be macerated and discharged at least 12 miles from shore or ice shelves or stored aboard the vessel for disposal at port. All other solid waste and garbage will be stored aboard the vessel for disposal at port.

Location: Antarctic Peninsula Region.

Dates of Permitted Activities: January 7, 2022–March 30, 2026.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–27209 Filed 12–15–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–155, 50–255, 72–007, and 72–043; NRC–2021–0211]

In the Matter of Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International and Holtec Decommissioning International, LLC, Big Rock Point Plant and Palisades Nuclear Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Transfer of licenses; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order approving the transfer of Renewed Facility Operating License No. DPR–20 for the Palisades Nuclear Plant (Palisades), the general license for the Palisades Independent Spent Fuel Storage Installation (ISFSI), Facility Operating License No. DPR–6 for Big Rock Point Plant (Big Rock Point), and the general license for the Big Rock Point ISFSI (referred to collectively as the Sites and the licenses) to a Holtec International (Holtec) subsidiary to be known as Holtec Palisades, LLC (Holtec Palisades). The order also approves the transfer of operating authority from the currently licensed operator, Entergy Nuclear Operations, Inc. (ENOI), to Holtec Decommissioning International, LLC (HDI). The NRC is also issuing draft conforming amendments to the facility operating licenses for administrative purposes to reflect the transfer of the licenses from ENOI to HDI and the planned name change for Entergy Nuclear Palisades, LLC to Holtec Palisades.

DATES: The order was issued on December 13, 2021, and is effective for 1 year.

ADDRESSES: Please refer to Docket ID NRC–2021–0211 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document by using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0211. Address questions about Dockets IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The license transfer order, the NRC safety evaluation supporting the staff's findings, and the draft conforming license amendments are available in ADAMS under Package Accession No. ML21292A155.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Scott P. Wall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2855; email: *Scott.Wall@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: December 13, 2021.

For the Nuclear Regulatory Commission.

Scott P. Wall,

Senior Project Manager, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Order Approving Transfer of Licenses and Draft Conforming Administrative License Amendments

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of: Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Big Rock Point Plant and ISFSI, Palisades Nuclear Plant and ISFSI EA–21–158

Docket Nos. 50–155, 50–255, 72–007, and 72–043

License Nos. DPR–6 and DPR–20

ORDER APPROVING TRANSFER OF LICENSES AND DRAFT CONFORMING ADMINISTRATIVE LICENSE AMENDMENTS

I.

Entergy Nuclear Operations, Inc. (ENOI) and Entergy Nuclear Palisades, LLC (ENP) are the holders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) Facility Operating License No. DPR–6 for Big Rock Point Plant (Big Rock Point), Renewed Facility Operating License No. DPR–20 for Palisades Nuclear Plant (Palisades), and the general licenses for the Big Rock Point and the Palisades independent spent fuel storage installations (ISFSIs) (collectively, the Sites and the licenses). Big Rock Point permanently ceased operations on August 29, 1997, and ENOI has certified to the NRC its decision to permanently cease operations at Palisades no later than

May 31, 2022. Big Rock Point is located in Hayes, Michigan, in Charlevoix County, on the northern shore of Michigan's Lower Peninsula. Palisades is located in Covert, Michigan, in Van Buren County, on the eastern shore of Lake Michigan.

II.

ENOI, on behalf of itself, ENP, Holtec International (Holtec), and Holtec Decommissioning International, LLC (HDI) (collectively, the Applicants), requested that the NRC consent to the transfer of control of the licenses to a Holtec subsidiary to be known as Holtec Palisades, LLC (Holtec Palisades). The application, dated December 23, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20358A075), as supplemented by information in letters from HDI dated December 23, 2020, December 23, 2020, and October 29, 2021 (ADAMS Accession Nos. ML20358A232, ML20358A239, and ML21302A064, respectively), made the request under Section 184, ''Inalienability of Licenses,'' of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.80, ''Transfer of licenses,'' and 10 CFR 72.50, ''Transfer of license.'' The Applicants also requested that the NRC consent to the transfer of ENOI's operating authority (*i.e.,* its authority to conduct licensed activities at Big Rock Point and Palisades) to HDI. Finally, the Applicants requested that the NRC approve conforming administrative amendments to the licenses to reflect the proposed license transfer and the planned name change from ENP to Holtec Palisades in accordance with 10 CFR 50.90, ''Application for amendment of license, construction permit, or early site permit.''

Upon an NRC approval of the license transfer application and the consummation of the proposed transfer transaction, Holtec Palisades would be the licensed owner for Big Rock Point and Palisades. Holtec Palisades would also own each site's associated assets and real estate, including the Palisades decommissioning trust fund (DTF), title to spent nuclear fuel, and rights under the terms of the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste with the U.S. Department of Energy. A wholly-owned subsidiary of Holtec, Nuclear Asset Management Company, LLC, would acquire all equity interests in the parent companies owning the Sites and would emerge as the direct parent company owner of Holtec Palisades.

Holtec Palisades would enter into an operating agreement for decommissioning services with HDI, which would act as its agent, and Holtec Palisades would pay for HDI's decommissioning, spent fuel management, and site restoration costs incurred at Big Rock Point and Palisades; HDI would be the licensed operator for Big Rock Point and Palisades. HDI would assume responsibility for compliance with NRC regulations and the current licensing bases, including regulatory commitments that exist at the consummation of the proposed transfer transaction, and would implement any changes under applicable regulatory requirements and practices. Comprehensive Decommissioning International, LLC, a general contractor to HDI, would perform day-to-day activities at Big Rock Point and Palisades, including decommissioning activities, under a general contractor agreement between it and HDI, subject to HDI's direct oversight and control as the licensed operator.

Nuclear Asset Management Company, LLC and HDI would be direct, wholly-owned subsidiaries of Holtec Power, Inc., which is a direct, wholly-owned subsidiary of Holtec.

On February 4, 2021, the NRC published in the **Federal Register** (86 FR 8225) the notice of consideration of approval of the license transfer application and of conforming amendments to the licenses to reflect the proposed transfer. This notice provided an opportunity to request a hearing within 20 days and an opportunity to comment within 30 days.

In response, separate hearing requests were filed by: (1) The State of Michigan (ADAMS Accession No. ML21055A888); (2) the Environmental Law and Policy Center (ADAMS Accession No. ML21055A914); (3) Beyond Nuclear, Michigan Safe Energy Future, and Don't Waste Michigan (ADAMS Accession No. ML21055A953); and (4) Mark Muhich (ADAMS Accession No. ML21083A134). These hearing requests are pending before the Commission. The NRC also received public comments on the license transfer application, the general topics of which are provided in the NRC staff's safety evaluation of the application. The NRC staff reviewed the hearing requests and comment submissions and considered them as part of its evaluation of the application.

The letter from HDI, dated December 23, 2020, requested, in support of the license transfer application, an exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) to allow the use of funds from the Palisades DTF for spent fuel management and site restoration activities at Palisades and to allow disbursements from the Palisades DTF for these activities to be made without prior notice, similar to withdrawals in accordance with 10 CFR 50.82(a)(8). Separate from this order, the NRC staff reviewed and approved the exemption request (ADAMS Accession No. ML21286A581). The staff is issuing its approval of the exemption request concurrent with its approval of the license transfer application; the exemption is effective immediately but will only apply to Holtec Palisades and HDI if and when the proposed transfer transaction is consummated.

In accordance with 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. In accordance with 10 CFR 72.50, no license or any part included in a license for an ISFSI shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the license transfer application, as supplemented, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Holtec Palisades and HDI are qualified to be the holders of the licenses and that the transfer of the licenses, as described in the application, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions set forth below.

Upon review of the application, as supplemented, for conforming administrative amendments to the licenses to reflect the transfer, the NRC staff has determined the following:

(1) The application for amendments complies with the standards and requirements of the AEA and the Commission's rules and regulations set forth in 10 CFR Chapter I.

(2) The facility will operate in conformity with the application, the provisions of the AEA, and the rules and regulations of the Commission.

(3) There is reasonable assurance that the activities authorized by the amendments can be conducted without endangering the public health and safety and that such activities will be conducted in compliance with the Commission's regulations.

(4) The issuance of the amendments will not be inimical to the common defense and security or to the public health and safety.

(5) The issuance of the amendments is in accordance with 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC staff safety evaluation dated December 13, 2021, which is available at ADAMS Accession No. ML21292A148.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the AEA; 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, 10 CFR 72.50, and 10 CFR 50.90, *it is hereby ordered* that the license transfer application, as described herein, be approved, subject to the following conditions:

(1) At least 2 business days before the planned closing date of the purchase and sale transaction, HDI shall provide the Directors of the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) and Office of Nuclear Reactor Regulation (NRR) satisfactory documentary evidence that Holtec Palisades and HDI will enter into a decommissioning operator services agreement that provides for HDI to act as the agent for Holtec Palisades and for Holtec Palisades to pay HDI's costs of post-shutdown operations, including decommissioning and spent fuel management costs.

(2) At least 2 business days before the planned closing date of the purchase and sale transaction, HDI shall provide the Directors of NMSS and NRR satisfactory documentary evidence that the appropriate amount of insurance required of a licensee under 10 CFR 140.11(a)(4) and 10 CFR 50.54(w) has been obtained.

(3) At least 2 business days before the planned closing date of the purchase and sale transaction, HDI shall provide the Directors of NMSS and NRR satisfactory documentary evidence that, for the Big Rock Point ISFSI, a fund satisfying the prepayment method of 10 CFR 72.30(e)(1) for decommissioning has been established.

(4) At least 2 business days before the planned closing date of the purchase and sale transaction, HDI shall provide the Directors of NMSS and NRR satisfactory documentary evidence that, for the Big Rock Point ISFSI, a fund containing one year's worth of estimated operating costs, along with a parent support agreement to continually maintain that fund with one year's worth of estimated operating costs, has been established.

(5) The NRC staff's approval of this license transfer is subject to the Commission's authority to rescind, modify, or condition the approved transfer based on the outcome of any post-effectiveness hearing on the license transfer application.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendments that make changes, as indicated in Enclosure 2 to the letter transmitting this order, to reflect the subject license transfer are approved. The amendments shall be issued and made effective at the time the proposed transfer actions are completed.

It is further ordered that at least 2 business days before the planned closing date of the purchase and sale transaction, ENOI shall provide the Directors of NMSS and NRR with notice of the planned closing date of the purchase and sale transaction. Should the proposed transfer not be completed within 1 year of the date of this order, this order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order. The conditions of this order may be amended upon application by the Applicants and approval by the NRC.

This order is effective upon issuance.

For further details with respect to this order, see the application dated December 23, 2020, as supplemented by information in letters from HDI dated December 23, 2020, December 23, 2020, and October 29, 2021, and the associated NRC staff safety evaluation dated December 13, 2021, which are available for public inspection electronically through ADAMS in the NRC Library at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dated: December 13, 2021.

For the nuclear regulatory commission.

Shana R. Helton, Director,
Division of Fuel Management,
Office of Nuclear Material Safety and Safeguards.

Michael F. King, Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–27274 Filed 12–15–21; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Qualified Domestic Relations Orders Submitted to PBGC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection, with modifications.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget extend approval (with modifications), under the Paperwork Reduction Act of 1995, of the information collection related to PBGC's booklet, Qualified Domestic Relations Orders & PBGC. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted by January 18, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the request will be posted on PBGC's website at *www.pbgc.gov/prac/laws-and-regulation/federalregister-notices-open-for-comment.* It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW, Washington, DC 20005–4026; or, calling 202–229–4040 during normal business hours (TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–229–4040). The Disclosure Division will email, fax, or mail the information to you, as you request.

FOR FURTHER INFORMATION CONTACT: Karen Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–229–3559. (TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–229–3559.)

SUPPLEMENTARY INFORMATION: A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible

for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, the Pension Benefit Guaranty Corporation (PBGC) becomes trustee of the plan and pays benefits, subject to legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or marital property rights of an alternate payee (a spouse, former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it a qualified domestic relations order (QDRO).

When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. The requirements for submitting a domestic relations order (DRO or order) and the contents of such orders are established by statute. The models and the guidance provided by PBGC assist parties by making it easier for them to comply with ERISA's QDRO requirements in plans trusteed by PBGC; they do not create any additional requirements and result in a reduction of the statutory burden.

The existing collection of information was approved under OMB control number 1212–0054, expiring on February 28, 2022. On October 6, 2021, PBGC published in the **Federal Register** (at 86 FR 55638), a notice informing the public of its intent to request an extension of this collection of information, as modified. No comments were received. PBGC is requesting that OMB extend approval of the collection with modifications for three years. The modifications requested are not material. 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.

PBGC estimates that it will receive approximately 428 domestic relations orders each year from prospective alternate payees and participants. PBGC further estimates that the total average annual burden of this collection of information will be approximately 321 hours and $299,600.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2021–27251 Filed 12–15–21; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93748; File No. SR–NYSE–2021–70]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Eliminate the Underutilized Supplemental Liquidity Provider National Best Bid and Offer Setter Tier Credits

December 10, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 30, 2021, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate the underutilized Supplemental Liquidity Provider (''SLP'') National Best Bid and Offer (''NBBO'') Setter Tier credits. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to eliminate the underutilized SLP NBBO Setter Tier credits.

The Exchange proposes to implement the rule change on December 1, 2021.

The Exchange adopted the SLP NBBO Setter Tier in August 2020 for securities with a per share price of $1.00 or above that offers four sets of tiered credits for orders from SLPs that set the NBBO or provide other displayed liquidity in Tape A, B and C Securities, on a monthly basis, in addition to the tiered or non-tiered SLP credit for adding displayed liquidity. The purpose of the change was to incentivize member organizations that are SLPs to increase aggressively priced liquidity-providing orders that improve the market by setting the NBBO, thereby encouraging higher levels of liquidity that would support the quality of price discovery on the Exchange consistent with the overall goal of enhancing market quality.[4]

The Exchange proposes to eliminate and remove the SLP NBBO Setter Tier credits from the Price List. The credits have been underutilized by member organizations insofar as only one SLP has achieved any of the four tiers since the tiers were adopted and that firm's volume has declined over time. Moreover, no SLP has achieved the higher levels of liquidity or sent in additional liquidity to support the quality of price discovery on the Exchange that the Exchange expected when adopting the tiers. The Exchange does not anticipate that any additional member organization in the near future would qualify for the tiered credits that are the subject of this proposed rule change.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 89754 (September 2, 2020), 85 FR 55550, 55554 (September 8, 2020) (SR–NYSE–2020–71) (adopting SLP NBBO Setter credits applicable to SLPs and member organizations affiliated with SLPs); Securities Exchange Act Release No. 90947 (January 19, 2021), 86 FR 7138 (January 26, 2021) (SR–NYSE–2021–02) (restricting SLP NBBO Setter credits to member organizations that are SLPs).

would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

The Exchange believes that the proposed elimination of the underutilized SLP NBBO Setter Tier credits for member organizations that are SLPs is reasonable because member organizations have underutilized these incentives. As noted, only one SLP has achieved any of the four tiers since the tiers were adopted and that firm's volume has declined over time. Moreover, no SLP has achieved the higher levels of liquidity or sent in additional liquidity to support the quality of price discovery on the Exchange that the Exchange expected when adopting the tiers. The Exchange does not anticipate that any additional member organization in the near future would qualify for the tiered credits that are the subject of this proposed rule change. The Exchange believes it is reasonable to eliminate credits when such incentives become underutilized. The Exchange also believes eliminating underutilized incentives would add clarity and transparency to the Price List.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees among its market participants because the underutilized credits the Exchange proposes to eliminate would be eliminated in their entirety, and would no longer be available to any member organization in any form. Similarly, the Exchange believes the proposal equitably allocates fees among its market participants because elimination of the underutilized credits would apply to all similarly-situated member organizations that are SLPs on an equal basis. All such member organizations would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal is not unfairly discriminatory because the proposed elimination of the underutilized NBBO Setter Tier credits would affect all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange believes that eliminating credits that are underutilized and ineffective would no longer be available to any member organization on an equal basis. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of underutilized credits would make the Price List more accessible and transparent.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates to the elimination of an underutilized credits and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Price List.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–70 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–NYSE–2021–70. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2021–70, and should be submitted on or before January 6, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–27180 Filed 12–15–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17279 and #17280; California Disaster Number CA–00352]

Administrative Declaration of a Disaster for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 12/9/2021.

Incident: Caldor Fire.

Incident Period: 08/14/2021 through 10/21/2021.

DATES: Issued on 12/9/2021.

Physical Loan Application Deadline Date: 02/07/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 09/12/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: El Dorado.

Contiguous Counties:

California: Alpine, Amador, Placer, Sacramento.

Nevada: Douglas.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	5.710
Businesses without Credit Available Elsewhere	2.855
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.855
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17279 5 and for economic injury is 17280 0.

The States which received an EIDL Declaration # are California, Nevada.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–27281 Filed 12–15–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17286 and #17287; Kentucky Disaster Number KY–00087]

Presidential Declaration of a Major Disaster for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4630–DR), dated 12/12/2021.

Incident: Severe Storms, Straight-line Winds, Flooding, and Tornadoes.

Incident Period: 12/10/2021 and continuing.

DATES: Issued on 12/12/2021.

Physical Loan Application Deadline Date: 02/10/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 09/12/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/12/2021, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Caldwell, Fulton, Graves, Hopkins, Marshall, Muhlenberg, Taylor, Warren

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Adair, Allen, Barren, Butler, Calloway, Carlisle, Casey, Christian, Crittenden, Edmonson, Green, Hickman, Larue, Livingston, Logan, Lyon, Marion, McCracken, McLean, Ohio, Simpson, Todd, Trigg, Webster

Missouri: Mississippi, New Madrid

Tennessee: Henry, Lake, Obion, Weakley

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.875
Homeowners without Credit Available Elsewhere	1.438
Businesses with Credit Available Elsewhere	5.660
Businesses without Credit Available Elsewhere	2.830
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.830
Non-Profit Organizations without Credit Available Elsewhere	1.875

[11] 17 CFR 200.30–3(a)(12).

The number assigned to this disaster for physical damage is 17286 C and for economic injury is 17287 0.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2021–27282 Filed 12–15–21; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36558]

Savannah Port Terminal Railroad, Inc.—Operation Exemption—Georgia Ports Authority

Savannah Port Terminal Railroad, Inc. (SAPT), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate approximately one mile of common carrier track owned by the Georgia Ports Authority (GPA) within the GPA facility known as the Garden City Terminal (GCT) (the Line). The Line has no mileposts.

The verified notice states that SAPT has entered into an Operating Agreement with GPA pursuant to which SAPT will operate the Line.[1] SAPT states that it currently holds common carrier authority to operate the Line through a 1998 easement agreement with GPA.

SAPT certifies that the acquisition does not impose or include an interchange commitment. SAPT further certifies that its projected annual revenues as a result of this transaction will not result in SAPT's becoming a Class II or Class I rail carrier but that its current annual revenues exceed $5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, SAPT's verified notice includes a request for waiver of the 60-day advance labor notice requirements. SAPT's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

[1] SAPT states that, under the Operating Agreement, it will also operate an additional approximately 34 miles of track within GCT and GPA's new Mason Mega-rail Terminal as yard and side tracks.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than December 23, 2021.

All pleadings, referring to Docket No. FD 36558, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on SAPT's representative: Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to SAPT, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: December 13, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2021–27247 Filed 12–15–21; 8:45 am]

BILLING CODE 4915–01–P

TRADE AND DEVELOPMENT AGENCY

Privacy Act of 1974; System of Records

AGENCY: Trade and Development Agency.

ACTION: Notice of system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the U.S. Trade and Development Agency (USTDA), is publishing a notice of the existence and character of its system of records (SORN) for collecting and maintaining records related to requests for reasonable accommodations, religious accommodations, and medical and religious exceptions to the requirement that federal employees be vaccinated against the coronavirus disease 2019 (COVID–19). The system of records is being established to: Allow USTDA to collect and maintain records on prospective, current, and former employees who request or receive a reasonable accommodation by USTDA; allow USTDA to collect and maintain records on prospective, current, and former employees with sincerely held religious beliefs, practices, or observances who request or receive an accommodation by USTDA; allow USTDA to collect and maintain records on vaccinations against COVID–19; allow USTDA to collect and maintain records on prospective, current, and former employees who request an exception to the requirement that federal employees be vaccinated against COVID–19; and preserve and maintain the confidentiality of medical and religious information submitted by or on behalf of applicants or employees requesting an accommodation or exception.

DATES: The system is effective upon December 16, 2021.

ADDRESSES: Angelia Vicchiollo, Senior Agency Official for Privacy, U.S. Trade and Development Agency, 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209. Email: *avicchiollo@ustda.gov.* Telephone: (703) 875–4357.

FOR FURTHER INFORMATION CONTACT: Angelia Vicchiollo, Senior Agency Official for Privacy, U.S. Trade and Development Agency, 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209. Email: *avicchiollo@ustda.gov.* Telephone: (703) 875–4357.

SUPPLEMENTARY INFORMATION: On September 9, 2021, President Biden issued Executive Order 14043, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees,* requiring the COVID–19 vaccination for all Federal employees, subject to such exceptions as required by law. On October 4, 2021, the Safer Federal Workforce Task Force issued guidance to Federal agencies regarding collecting information for medical and religious accommodations. Further, USTDA collects and maintains records related to requests for reasonable accommodations, in conformity with Executive Order 13164, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation* (July 26, 2000) and Executive Order 13548, *Increasing Federal Employment of Individuals with Disabilities* (July 26, 2010). In order to meet the requirements of these Executive Orders and the Task Force recommendations, USTDA is creating this system of records to allow the collection of information related to reasonable accommodations, religious accommodations and medical and religious exceptions to the requirement that federal employees by vaccinated against COVID–19.

SYSTEM NAME AND NUMBER:

USTDA–1 Accommodation Request Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The accommodation request files in the system are maintained at USTDA, 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209.

SYSTEM MANAGER(S):

Matt Cox, Reasonable Accommodation Manager, U.S. Trade and Development Agency, 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209. Email: *mcox@ustda.gov.* Telephone: (571) 236–2154.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 5 U.S.C. 302, 1103; Executive Order 13164, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation* (July 26, 2000); Executive Order 13548, *Increasing Federal Employment of Individuals with Disabilities* (July 26, 2010); and Executive Order 14043, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees* (September 9, 2021).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to facilitate providing different types of accommodations and exceptions to USTDA employees who meet the relevant requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include (i) prospective, current, and former USTDA employees who request reasonable accommodation for a disability, medical condition, or sincerely held religious belief, practice, or observance, and (ii) authorized individuals or representatives (*e.g.,* family members or health professionals) who file such a request on behalf of a prospective, current, or former employee.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system may contain some or all of the following categories of records: (1) Requests for accommodation, including medical records, information on religious beliefs and practices, and notes; (2) records made during consideration of requests; and (3) decisions on requests. These records may contain one or more of the following types of information: The employee or applicant's name, email address, mailing address, phone number, information concerning the nature of the disability or medical condition and the need for accommodation, medical information, information concerning the nature of the sincerely held religious belief, practice, or observation and the need for an accommodation, details regarding the requested accommodation, any additional information provided by the employee or applicant related to processing the request, and whether the accommodation was approved. If an accommodation request is made by a family member, health professional, or other representative of a USTDA employee or applicant, the records may also contain the requestor's name, email address, mailing address, phone number, and any additional information provided by the requestor related to processing the request.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from health professionals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside of USTDA as a routine use pursuant to 5 U.S.C. 552a (b)(3) as follows:

1. A record may be disclosed as a routine use to a Member of Congress or his or her staff, when the Member of Congress or his or her staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the subject individual for employment purposes (including the hiring or retention of any employee; the issuance of a security clearance; the signing of a contract; or the issuance of a license, grant, or other benefits by the requesting agency) to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved.

3. In the event that a record in a system of records maintained by USTDA indicates, either by itself or in combination with other information in USTDA's possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule, or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate, or administrative tribunal of appropriate jurisdiction, and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

5. A record may be disclosed as a routine use to a contractor, expert, or consultant of USTDA (or an office within USTDA) when the purpose of the release is to perform a survey, audit, or other review of USTDA's procedures and operations.

6. A record from the system may be disclosed as a routine use to the National Archives and Records Administration (NARA) as part of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

7. A record may be disclosed to a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Federal government's best interest.

8. A record may be disclosed to appropriate agencies, entities, and persons when (1) USTDA suspects or has confirmed that there has been a breach of the system of records, (2) USTDA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USTDA (including its information systems, programs, and operations), the Federal Government, or national security, and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USTDA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. A record may be disclosed to another Federal agency or Federal entity, when USTDA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1)

responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

10. A record may be disclosed to the Department of Justice when (a) USTDA, (b) any employee of USTDA in such person's official capacity, (c) any employee of USTDA in such person's individual capacity where the Department of Justice has agreed to represent the employee, or (d) the United States, where USTDA determines that litigation is likely to affect the agency, in each case, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by USTDA to be relevant and necessary to the litigation.

11. A record may be disclosed to a court or adjudicative body before which USTDA is authorized to appear when (a) USTDA, (b) any employee of USTDA in such person's official capacity, (c) any employee of USTDA in such person's individual capacity where USTDA has agreed to represent the employee, or (d) the United States, where USTDA determines that litigation is likely to affect the agency, in each case, is a party to litigation or has an interest in such litigation, and USTDA determines that use of such records is relevant and necessary to the litigation.

12. A record may be disclosed to first aid and safety personnel if the individual's medical condition requires emergency treatment.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and electronic records.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in these case files may be retrieved by the employee or applicant's name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

USTDA reasonable accommodation request records are temporary records and are destroyed in accordance with the disposition instructions in the NARA Records Schedule (a supplement to the NARA Files Maintenance and Records Disposition Manual). Individuals may request a copy of the disposition instructions from the USTDA Senior Agency Official for Privacy.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS:

Paper records are maintained in areas accessible only to authorized USTDA personnel. Electronic records are accessible via a single computer that requires double-factor authentication to access, and that is accessible only to the Reasonable Accommodation Manager. After business hours, buildings have secured doors, and all entrances are monitored by electronic surveillance equipment.

RECORD ACCESS PROCEDURES:

People who wish to access their records or to determine whether this system of records contains information about themselves should submit a request in writing to the Senior Agency Official for Privacy, U.S. Trade and Development Agency, 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209. Email: *avicchiollo@ustda.gov.*

CONTESTING RECORD PROCEDURES:

See Record Access Procedures.

NOTIFICATION PROCEDURES:

See Record Access Procedures.

EXEMPTIONS PROMULGATED FOR THIS SYTEM:

None.

HISTORY:

None.

Issued in Washington, DC, on December 12, 2021.

Angelia Vicchiollo,

Senior Agency Official for Privacy, U.S. Trade and Development Agency.

[FR Doc. 2021–27256 Filed 12–15–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2021–1138]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Computerized Neurocognitive Tests for Aeromedical Safety

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Aviation Administration (FAA) invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new Information Collection (IC) effort. The collection involves in-person sessions between researchers, certified pilots, and air traffic control specialists (ATCS). Computerized neurocognitive tests are a non-invasive way to measure cognitive function (*e.g.,* attention, working memory, information processing speed, reaction time) and are used as part of the FAA's overall aeromedical physical exam process to determine if a pilot is safe to operate an aircraft within the National Airspace System (NAS) and if an ATCS is safe to return to duty. Neurocognitive tests are required only for pilots and ATCSs with certain medical conditions associated with aeromedically significant cognitive impairments (*i.e.,* not all pilots and ATCSs are tested). The FAA needs to ensure that the tests and data used to maintain the safety of the NAS are based on the most current scientific knowledge. The purpose of this IC effort is to obtain updated pilot and ATCS normative data for the FAA's current neurocognitive test and alternative neurocognitive tests under consideration. The IC effort will be used to potentially revise the FAA's *Aviation Medical Examiners* (*AME) Guide,* update clinical practices, and assure aeromedical safety. Information will be collected from representative pilots and ATCSs across the United States, who will complete two different 1-hour neurocognitive tests. Total IC effort/time per person will be approximately four hours (*i.e.,* to include check-in processing, informed consent, neurocognitive test-taking, rest breaks, and participant debrief).

DATES: Written comments should be submitted by February 14, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: https://www.regulations.gov (Enter docket number into search field).

By mail: Susan M. Jay, Ph.D., Bldg. 13, Rm 155C, 6500 S. MacArthur Blvd., Oklahoma City, OK 73125.

By fax: (405) 954–0130.

FOR FURTHER INFORMATION CONTACT: Susan M. Jay, Ph.D., by email at: *susan.m.jay@faa.gov;* phone: (405) 954–5500.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection effort to include: (a) Whether the proposed information collection effort is necessary for the FAA's performance; (b) the accuracy of the estimated burden; (c) ways for the FAA to enhance the quality, utility, and clarity of the information collection

effort; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection effort.

OMB Control Number: 2120–XXXX.

Title: Computerized Neurocognitive Tests for Aeromedical Safety.

Form Numbers: List all forms.

Type of Review: New information collection.

Background: The FAA's mission and vision is to provide the safest, most efficient aerospace system in the world as new users and technologies integrate into the system. Computerized neurocognitive tests are a non-invasive way to measure cognitive function (*e.g.,* attention, working memory, information processing speed, reaction time). Neurocognitive tests are used as part of the FAA's overall aeromedical physical exam process to determine if a pilot is safe to operate an aircraft within the NAS and if an ATCS is safe to return to duty. Neurocognitive tests are required only for pilots and ATCSs with certain medical conditions associated with aeromedically significant cognitive impairments (*i.e.,* not all pilots and ATCSs are tested). The FAA needs to ensure that the tests and data used to maintain the safety of the NAS based on the most current scientific knowledge. The purpose of this IC effort is to obtain updated pilot and ATCS normative data for the current test and alternative neurocognitive tests under consideration. The IC effort will be used to potentially revise the FAA's *AME Guide,* update clinical practices, and assure aeromedical safety.

Respondents: 1,500 respondents.

Frequency: One-time collection.

Estimated Average Burden per Response: 4-hours burden per respondent-response.

Estimated Total Annual Burden: 6,000 hours, total burden.

Issued in Oklahoma City, Oklahoma, on December 10, 2021.

Susan M. Jay,

Aviation Safety, Research Physiologist, Civil Aerospace Medical Institute (CAMI), Federal Aviation Administration.

[FR Doc. 2021–27186 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0182]

Qualification of Drivers; Exemption Applications; Narcolepsy

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces receipt of an application from one individual for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against operation of a commercial motor vehicle (CMV) in interstate commerce by persons with either a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a CMV. If granted, the exemption would enable this individual who has been diagnosed with narcolepsy and is receiving medical treatment to operate CMVs in interstate commerce.

DATES: Comments must be received on or before January 18, 2022.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket ID FMCSA–2021–0182 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2021–0182, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0182), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov,* insert the docket number FMCSA–2021–0182 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0182, 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.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory 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

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for 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 five-year period. FMCSA grants exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The individual listed in this notice has requested an exemption from 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of the applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers 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 loss of consciousness or any loss of ability to control a commercial motor vehicle.

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. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

The advisory criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. The advisory criteria also state that a variety of functional disorders can cause drowsiness, dizziness, confusion, weakness, or paralysis that may lead to incoordination, inattention, loss of functional control, and susceptibility to accidents while driving.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

III. Qualifications of Applicant

Sheila Bennett

Ms. Bennett is a CMV driver in Tennessee. Ms. Bennett self-reports that she was diagnosed with narcolepsy in early 2005, and started a treatment plan immediately. A letter dated October 12, 2021, from Ms. Bennett's sleep medicine provider reports that she is under care for treatment of narcolepsy with stimulants, and that she reports her daytime sleepiness is well-controlled on current medication.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petition described in this notice. We will consider all comments received before the close of business on the closing date indicated in the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–27222 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–EX–P

[1] See *https://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d979708mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0130]

Registration and Financial Security Requirements for Brokers of Property and Freight Forwarders; Small Business in Transportation Coalition (SBTC) Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA denies an application from the Small Business in Transportation Coalition (SBTC) seeking reconsideration of the Agency's March 31, 2015 denial of the Association of Independent Property Brokers and Agents' (AIPBA) application for an exemption from the $75,000 bond requirement for all property brokers and freight forwarders. FMCSA treats the SBTC request as a new exemption application. After reviewing SBTC's application and the public comments, the Agency has concluded that the exemption request should be denied because it does not meet the statutory factors for an exemption.

DATES: FMCSA denies this application for exemption effective December 16, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Associate Administrator for Policy, FMCSA; Telephone: (202) 366–4012; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2020–0130'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click ''Browse Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2020–0130'' in the keyword box, click ''Search,'' and choose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC

20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

Under 49 U.S.C. 13541(a), the Secretary of Transportation (Secretary) ''shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of [49 U.S.C. subtitle IV, part B (chapters 131–149)], or use this exemption authority to modify the application of a provision of [49 U.S.C. subtitle IV, part B (chapters 131–149)] as it applies to such person, class, transaction, or service, when the Secretary . . . finds that the application of that provision—

(1) is not necessary to carry out the transportation policy of [49 U.S.C.] section 13101;

(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

(3) is in the public interest.''

The Secretary may begin a section 13541 exemption proceeding on the application of an interested party or on the Secretary's own initiative. The Secretary may ''specify the period of time during which an exemption'' is effective and may revoke the exemption ''to the extent specified, on finding that application of a provision of [49 U.S.C. chapters 131–149] to the person, class, or transportation is necessary to carry out the transportation policy of [49 U.S.C.] section 13101.'' 49 U.S.C. 13541(c), (d). In addition, the exemption authority provided by section 13541 ''may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage [or] insurance. . . .'' 49 U.S.C. 13541(e)(1).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. 13541.

III. Current Legal Requirements

Under 49 U.S.C. 13906(b) and (c), as amended by section 32918 of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141, 126 Stat. 405 (MAP–21), all brokers and freight forwarders subject to FMCSA's jurisdiction must maintain $75,000 in financial security. The financial security must be in the form of a surety bond or trust fund in accordance with 49 CFR 387.307(a), 387.403T(c).

IV. Background

On December 26, 2013, FMCSA requested public comment on AIPBA's August 14, 2013 application for an exemption for all property brokers and freight forwarders from the requirement for a $75,000 surety bond or trust fund. 78 FR 78472. Specifically, FMCSA requested comments on whether the Agency should grant or deny AIPBA's application, in whole or in part. The Agency also requested comments on how it should apply 49 U.S.C. 13541(a)(1)–(3) to AIPBA's request. *Id.* at 78473.[1]

On March 31, 2015, FMCSA published a **Federal Register** notice denying AIPBA's request. 80 FR 17142. The Agency concluded that the exemption should be denied on the basis that 49 U.S.C. 13541 does not give FMCSA the authority essentially to nullify a statutory provision by exempting the entire class of persons subject to the provision. *Id.* at 17145. Furthermore, even if the Agency had the authority to issue such a blanket exemption, FMCSA found that the $75,000 bond requirement was ''necessary to carry out the transportation policy of section 13101,'' was ''needed to protect shippers from the abuse of market power,'' and that an exemption was not in the public interest. *Id.* AIPBA did not appeal FMCSA's decision to federal court within the 60-day limitations period of 28 U.S.C. 2344.

V. Applicant's Request

In its application,[2] SBTC seeks a 5-year exemption from the $75,000 financial security requirements of 49 U.S.C. 13906(b) and (c), specifically for brokers and freight forwarders with annual revenues below $15.010 million.[3] SBTC believes granting the exemption ''is in the public interest'' as it will ''ensure an uninterrupted supply chain.'' [4] Moreover, SBTC indicates that the current bond level impedes small motor carriers from adding brokerage operations to their business.[5] Further, SBTC states that ''FMCSA needs to address the fact that 10,000 small business intermediaries, including members of the minority brokerage community, were revoked in the first two weeks of December 2013 and there are anti-competitive obstacles to entry currently in place due to a bond obviously set too high for over 40% of the brokerage industry to handle in 2013.'' [6] Finally, SBTC argues that its exemption request should be granted ''to give FMCSA more time to develop its 'comprehensive enforcement program' [7] to enforce the licensing and bonding requirement.'' [8]

During the public comment period on this request, SBTC submitted a comment in response to a comment filed by the Transportation Intermediaries Association (TIA). SBTC indicated that the increase in the number of FMCSA-registered transportation intermediaries since December 2013 is attributable to a separate MAP–21 requirement mandating motor carriers to obtain brokerage licenses before performing brokerage services, rather than to broker licenses being issued to ''new mom and pop small business brokers. . . .'' [9] Moreover, SBTC indicated that the factoring industry alleviates concerns pertaining to ''underfunded'' brokers. SBTC asserts that ''[m]ost factors actually pay the carriers directly before paying their broker clients making a bond not needed for the smallest of brokers.'' [10]

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[1] In 2013, AIPBA also sought judicial review in the U.S. Court of Appeals for the Eleventh Circuit of the FMCSA final rule that implemented MAP–21's $75,000 bond requirement. AIPBA alleged that FMCSA had improperly promulgated the rule without notice and comment. The court dismissed the petition, holding that AIPBA lacked standing. *Ass'n of Indep. Prop. Brokers and Agents* v. *Sec'y, U.S. Dep't of Transp., et al.* (11th Cir. Mar. 18, 2016).

[2] As noted in FMCSA's **Federal Register** publication, SBTC styled its request as a resubmission of an exemption request pursuant to 49 U.S.C. 31315(b)(3) and 49 CFR 381.317. As SBTC's request did not fall within those provisions, FMCSA had no jurisdiction to entertain SBTC's request under that authority. 85 FR 20334, 20335 n.2. Rather than dismissing SBTC's request, the Agency treated SBTC's request as a new request for exemption under Section 13541, the provision under which AIPBA's request was filed and which SBTC's should have been filed as well. SBTC has had ample opportunity to contest FMCSA's decision to treat its request as a new exemption application and it has not done so. SBTC's application, which applies to a more limited set of brokers and freight forwarders and a more limited time period than AIPBA's did, is a new request for exemption, rather than a resubmission, and will be assessed on that basis.

[3] SBTC Application at 10.

[4] *Id.* at 5.

[5] *Id.*

[6] *Id.* at 14.

[7] In a 2013 **Federal Register** Notice, FMCSA indicated it would ''phase in its enforcement of the broker registration requirements for motor carriers that also broker loads.'' 78 FR 54720, 54722 (Sept. 5, 2013). MAP–21 required motor carriers to obtain broker authority for their brokerage operations. *Id.* at 54720.

[8] SBTC Application, at 4.

[9] SBTC May 29 comments, at 3.

[10] *Id.* at 4. SBTC also sought leave to late file a comment dated June 5, 2020 to respond to comments filed by the Motor Carrier Regulatory Reform Coalition. FMCSA accepts the late-filed comment for consideration but does not believe its contents, which pertain to ''dispatch services,'' are relevant to this proceeding. MCRR late filed a June 10, 2020 response to SBTC's letter and FMCSA will accept that letter in the docket as well.

VI. Public Comments

On April 10, 2020, FMCSA requested public comment on SBTC's exemption application. 85 FR 20334.[11] Specifically, FMCSA requested comments on whether the Agency should grant or deny the application, in whole or in part. The Agency also requested comments on how it should apply 49 U.S.C. 13541(a)(1)–(3) to SBTC's request. 85 FR at 20335. In addition to SBTC's comments, which are discussed above, the Agency received 22 comments in response to the **Federal Register** notices. Seventeen commenters opposed the request for exemption. Five commenters did not directly address the request, with two of those commenters expressing general opposition to the broker bond. The commenters are: Amy Bourne, James Anonymous, Stephen Oatley, Navpreet Khaira, Jas Pannu, Amandeep Ghuman, Brian Klink, Don Juan, Rajdeep Singh, Patricia Newkirk, Melissa Carbonell, Jim Asad, Lisa Schmitt, Small Business in Transportation Coalition (SBTC), JW Surety Bonds, Motor Carrier Regulatory Reform (MCCR Coalition),[12] Owner-Operator Independent Drivers Association (OOIDA), American Trucking Associations (ATA), The Surety & Fidelity Association of America (SFAA), Transportation and Logistics Council, Inc. (TL Council), TIA, and two anonymous commenters.

Specific Comments by Opponents of SBTC's Application

FMCSA provides a sampling of comments provided by opponents of SBTC's application below.

ATA indicated that granting SBTC's request would deprive motor carriers of the bond protection where it is most needed—in dealings ''with brokers who turn out to be financially precarious.'' [13] ATA also indicated that if FMCSA had the authority to decide this exemption, which it questions due to Separation of Powers concerns, SBTC's request does not meet the standard pursuant to 49 U.S.C. 13541.[14]

TL Council, whose members include approximately 300 shippers, carriers, transportation intermediaries and other transportation service providers, described concerns over ''unfit or illegal operators'' and stated that ''the Exemption Application should be denied.'' [15]

JW Surety Bonds (JW Surety) stated, ''The SBTC seeks a frictionless environment for freight brokers to transact business without the need of financial security in the $75,000 bond without taking into consideration the consequences if such an exception was granted. The surety bond industry which issues the BMC–84 product has paid more than $3 [m]illion in claims to carriers and shippers which licensed freight brokers had defaulted upon their obligations for payment. Most recently during the COVID crisis, we have only seen claim occurrences increase. Our estimates for 2020, are that the surety industry will pay out $3.2–$3.5 [m]illion in carrier claims on freight brokers.'' [16] JW Surety also indicated that surety bonds are not a barrier to entry for legitimate brokers and that surety premiums are consistently low. According to JW Surety, ''exemption of the bond requirement would be of greatest benefit to repeat offenders that are regularly in breach of their payment commitments harming carriers.'' [17]

OOIDA stated, ''FMCSA must deny any exemptions that would weaken current broker bond standards and further defraud professional truck drivers and motor carriers from their rightful compensation.'' [18]

SFAA explained, ''The bonds required under 49 U.S.C. 13906 are intended to ensure that commercial entities, such as motor carriers and shippers, are protected if the freight forwarder fails to pay freight charges under its contracts, agreements or arrangements for transportation. The protections for shippers and carriers, who may also be small businesses themselves, should not be sacrificed in the interest of the Small Business [in] Transportation Coalition. The loss experience from this type of bond demonstrates it is serving its intended purpose, which Congress believed was necessary when it raised the bond requirement to $75,000.'' [19] SFAA further indicated that the increased bond amount has not had an impact on the availability of surety bonds ''for small businesses operating as forwarders or brokers.'' [20]

TIA indicated that ''the requested exemption would frustrate Congress's intent to protect payments to motor carriers and prevent unauthorized brokering.'' [21]

MCRR Coalition included statements from its member associations in opposition to SBTC's request. Tom Ogrodowski, of the Auto Haulers Association of America, stated that the increased bond requirement has not hindered the growth of brokers in the auto hauler sector.[22] In an affidavit, David Gee, President of the Alliance for Safe, Efficient and Competitive Truck Transportation (ASECTT), indicated that the price of a broker bond ''has crashed'' since 2013 where ''with a personal guarantee by the owner, a yearly bond cost of approximately $2,000 or less is involved.'' [23] And, in an affidavit, David Owen, the President of the National Association of Small Trucking Companies (NASTC), a 12,000 member organization ''the vast majority of which are small motor carriers operating less than 20 trucks,'' indicated that ''[o]ur initial fear that the bonding amount would be cost prohibitive for small brokers and have an anti-competitive effect on the industry did not come to pass. Our experience in helping new members shows that bonds from reputable sureties are available and commercially reasonable.'' [24]

Melissa Carbonell wrote, ''We are a broker and have been since 2006. We were also a carrier for a few years so we know both sides of this story. We have watched brokers get licenses, get cheap bonds, rack up large carrier bills and then go out of business and the carriers never get paid. The broker will restart another license and cheap bond and do it all over again! $10,000 is not enough to cover sometimes 3 freight bills. The bond needs to stay $75,000. We have $10,000 in a trust account and only pay $2,500 a year for our broker bond. Any broker doing more than $1 Million a year in business should be able to afford this amount! If they can't afford the bond then they are not solvent enough to be getting hundreds of thousands of dollars in credit on the backs of carriers. Please keep the broker bond the same! Please do not lower the broker bond!''

[11] On May 4, 2020, FMCSA corrected the public docket number referenced in its April 10 notice and extended the public comment period until June 3, 2020. 85 FR 26516.

[12] MCRR Coalition is composed of Air & Expedited Motor Carrier Association (AEMCA), Alliance for Safe, Efficient and Competitive Truck Transportation (ASECTT), American Home Furnishings Alliance (AHFA)/Specialized Furniture Carriers, Apex Capital Corp., Auto Haulers Association of America (AHAA), National Association of Small Trucking Companies (NASTC), The Expedite Alliance of North America (TEANA) and the Transportation Loss Prevention & Security Association (TLP&SA).

[13] Comments of the American Trucking Associations (ATA), at 2.

[14] *Id.* at 2–3.

[15] Comments of the Transportation and Logistics Council, Inc. at 2.

[16] Comments of JW Surety Bonds, at 1.

[17] *Id.*

[18] Comments of the Owner-Operator Independent Drivers Association, at 3.

[19] Comments of the Surety & Fidelity Association of America, at 1.

[20] *Id.* at 3.

[21] Comments of the Transportation Intermediaries Association, at 4.

[22] Comments of the Motor Carrier Regulatory Reform Coalition, Statement of Tom Ogrodowski.

[23] Comments of the Motor Carrier Regulatory Reform Coalition, Affidavit of David Gee, at 1.

[24] Comments of the Motor Carrier Regulatory Reform Coalition, Affidavit of David Owen, at 1.

Brian Klink stated: ''Having worked in the industry when the bond requirement was only $10,000, there was rampant abuse of the system that had an adverse [e]ffect primarily on small, non-fleet trucking companies. The MAP–21 protections which required among other things the bond face amount be increased to $75,000 was a positive step in limiting the 'here today, gone tomorrow' freight broker market. There are adequate resources available online to determine the financial stability of Property Brokers and Freight Forwarders which is yet another step in the right direction. Enforcement of the current regulations against those scamming the system needs to be enhanced rather than opening the door leaving little or no protection for the trucking industry as is being proposed here.''

Patricia Newkirk said, ''We are STRONGLY AGAINST ANY exemptions from the Broker Surety Bond. As a small carrier and a small broker we understand the importance of having a fail safe against disreputable brokers failing to pay. Our premium for our bond is $1,600 per year. When you calculate that on a daily cost of operation, 261 working days per calendar year, its $6.13 per day. It is not an unreasonable burden[ ] when you look at the cost to small carriers when brokers open, double broker and close the doors in a few months. We have filed against broker bonds 3 times in the past 10 years, once declined because it was inTRAstate commerce, once paid by bond and finally paid by the broker at 140 days past due AFTER we contacted their bonding agent. If any changes are brought to the Surety bond, an increase would actually be more fitting.''

Stephen Oatley commented, ''As far as the mention of dispatchers, I agree there is a need for enforcement of these 'truck dispatchers' as many are working as illegal brokers, under the mask of being load finders for trucking. With that said, removing the bonding requirement for a freight broker authority will do very little to help the industry. Saying that the bonding requirement is a 'barrier to entry' is correct and it should be. If an aspiring broker can not afford the $1,200–$5,000 yearly cost of the bond, they really have no business being a broker. A broker has a fiduciary duty to pay their carriers, and it is not cheap.''

Opposition to the Bond

An anonymous commenter wrote, ''The trucking industry has become more complex than it really needs to be which in turn adds wasted funds. Bonds such as this force small, honest brokers to close doors whose hearts are typically [sic] after seeing the truck make adequate revenue and providing good service to their customer.''

Don Juan commented, ''Prior to the 75K requirement that dollar figure would be $5,000 to $7,500 in valid claims to trigger a cancellation. Now with the 75K requirement, that valid claim amount rises to $35,000 to nearly $60,000 BEFORE a cancellation is made. By increasing the financial requirement to 75K, in essence crooked brokers can now rack up almost $40,000 in claims BEFORE their authority is even jeopardized! Then, when a cancellation IS made on the bond or trust, they still are LEGALLY allowed to operate for another 30 days before they have their broker authority revoked. MAP–21 stipulated insurance limits to be reviewed every 5 years[.] [Seven] years later it has yet to be reviewed. In the meantime, dispatch services continue to operate illegally and crooks post loads for $8 a mile with no intention of paying the carrier. The shipper is ultimately responsible for freight charges. [L]et them post the financial requirement!''

VII. Agency Decision

The Agency has thoroughly reviewed SBTC's request as well as the public comments. The Agency is denying SBTC's request as it does not meet the three-part test for issuance of an exemption pursuant to 49 U.S.C. 13541.

In its request, SBTC does not present a clear argument as to why its 2019 request for a 5- year exemption for brokers and freight forwarders with annual revenues below $15.01 million should be granted pursuant to section 13541. Instead, its argument appears to be limited to indicating that FMCSA, in its 2015 decision denying AIPBA's request for an exemption, did ''not offer any rationale or explanation'' besides conclusory statements as to why the granting of an exemption was not appropriate under section 13541.[25] SBTC's argument is factually incorrect. In its 2015 decision, FMCSA provided extensive analysis showing (1) why AIPBA's application was not in the public interest, (2) that AIPBA did not show that regulation was not necessary to protect shippers from the abuse of market power, and (3) that regulation was necessary to implement the National Transportation Policy (NTP) of 49 U.S.C. 13101. 80 FR at 17146–17147. Moreover, even if FMCSA had not carefully analyzed the statutory factors in 2015, SBTC's arguments related to AIPBA's 2013 exemption request are time barred. As noted above, AIPBA did not appeal FMCSA's 2015 decision in a timely manner, nor did it seek any administrative reconsideration of the Agency's decision for over 4 years. Instead, SBTC sought an exemption for a more limited group of entities. SBTC's application fails to address the section 13541 requirements for granting an exemption, which on its own is grounds for denying the application. FMCSA nevertheless provides a merit analysis of SBTC's request and concludes that, while the Agency has authority to grant SBTC's request, unlike in 2015 when AIPBA sought an exemption for all brokers and freight forwarders from the bond requirement, the Agency nevertheless will deny the request, for the reasons discussed below.[26]

First, in order for FMCSA to grant SBTC's exemption request, it would need to find that, for the next 5 years, the $75,000 bond requirement, as applied to brokers and freight forwarders with annual revenues under $15.01 million, ''is not necessary to carry out the transportation policy of section 13101.'' 49 U.S.C. 13541(a)(1). As noted above, aside from unsupported arguments challenging FMCSA's 2015 treatment of this issue, SBTC makes no current arguments why regulation is not necessary to advance the NTP.

To the contrary, and as evidenced by the comments opposing SBTC's request, the bond is necessary to implement the NTP. The NTP states that, in overseeing the motor carrier industry, it is the policy of the federal government to ''meet the needs of shippers'' and to ''enable efficient and well-managed carriers to earn adequate profits [and] attract adequate capital. . . .'' 49 U.S.C. 13101 (a)(2)(C),(F). By providing financial recovery for motor carriers (and shippers) in the event of broker or freight forwarder non-payment, the $75,000 bond serves to strengthen the finances of motor carriers and shippers. An exemption, even a temporary one, from the bond requirement for a wide swath of the broker and freight forwarder industry, as SBTC requests, would harm congressional goals. Moreover, as described above, numerous public comments in the docket support FMCSA's determination that the $75,000 bond benefits motor carriers.[27]

[25] SBTC Application, at 12.

[26] In its 2015 Decision, FMCSA indicated that it did ''not have the authority to effectively nullify a statute by exempting the entire class of persons subject to the bond requirement.'' 80 FR at 17145. While ATA questions the Agency's authority to entertain this request, ATA Comments at 2, ''TIA believes the Agency is authorized to consider SBTC's exemption request.'' TIA comments, at 3.

[27] Comments of the Transportation Intermediaries Association, at 4–5; comments of the Surety &

Continued

Next, for FMCSA to grant an exemption, FMCSA would have to conclude that the $75,000 bond requirement ''is not needed to protect shippers from the abuse of market power'' or that the requested exemption is of ''limited scope.'' 49 U.S.C. 13541(a)(2). SBTC, like AIPBA before it,[28] did not address the ''limited scope'' provision.[29] SBTC fails to argue why in 2019 the broker bond was ''not needed to protect shippers from the abuse of market power.'' Instead, SBTC states that in 2015 FMCSA did not provide adequate support for its determination that AIPBA did not make an adequate showing that the broker bond is not necessary to protect shippers from the abuse of market power.[30] SBTC has the burden of showing that regulation is not necessary; it is not FMCSA's burden to show why regulation is necessary.[31] Such a standard would turn the exemption statute on its head and undermine the Administrative Procedure Act.

Finally, in order to grant SBTC's request, FMCSA would need to determine that its proposed exemption is in the public interest. As the overwhelming majority of public comments attest,[32] SBTC has failed to show that the proposed exemption is in the public interest. Aside from unsupported statements addressed below, SBTC does not attempt to show why exempting a large swath of the brokerage and freight forwarder industries from the $75,000 bond requirement for 5 years is in the public interest. Instead, SBTC critiques FMCSA for purportedly not showing how AIPBA's proposed exemption was not in the public interest.[33] As noted above, FMCSA provided extensive reasoning as to why AIPBA's request was not in the public interest in 2015. 80 FR at 17146.

SBTC claims, without offering support, that granting the exemption ''is in the public interest to ensure an uninterrupted supply chain.'' [34] In reality, as explained above, granting SBTC's request would harm the finances of motor carriers and therefore interfere with the supply chain.[35] Having the bond available benefits motor carriers in the event of broker or freight forwarder non-payment.[36] In addition, SBTC's contentions that (1) the $75,000 bond impedes small carriers' ability to add brokerage operations,[37] and (2) ''the current broker census'' (as of September 2019), which featured an increase in the number of brokers since an initial decline following the bond increase in 2013, ''cannot be fairly attributed to a return of these small business brokers that were utterly decimated in December 2013'' [38] are unsupported. In fact, commenters point out how the bond requirement has not harmed small businesses. The MCRR Coalition, an organization that includes associations with over 15,000 small regulated motor carriers,[39] indicated that the argument that the increased bond amount prejudices small businesses is meritless. The annual surety bond premium is less than $2,000 on average, according to the MCRR Coalition.[40] David Owen, the President of the National Association of Small Trucking Companies (NASTC), in an affidavit attached to the MCRR Coalition's comments, stated that the fear that the increased bond amount would be cost prohibitive for small brokers and have an anti-competitive effect did not materialize.[41]

As noted above, SBTC argues that the factoring industry's direct payment of motor carriers obviates the need for the ''smallest of brokers'' to have a broker bond.[42] SBTC's argument is unsupported by any evidence, however, and therefore FMCSA has no basis for a finding that the presence of factors in motor carrier transportation means the public interest will be served by granting the requested exemption. SBTC also argues that a 5-year exemption is warranted to give FMCSA time to implement its ''comprehensive enforcement program'' to enforce the broker bonding and licensing requirement.[43] But SBTC's argument on this point falls short as well. SBTC fails to show how exempting a large segment of the broker industry from the bond requirement would be in the public interest merely because some entities are currently not complying. The core public interest implicated in Congress's imposition of the $75,000 financial security requirement is that motor carriers (and shippers) be paid in the event of broker or freight forwarder non-payment. SBTC's exemption request, if granted, would undermine that goal.

FMCSA therefore does not find that the $75,000 financial responsibility requirement for brokers/freight forwarders is ''not necessary to carry out the transportation policy of section 13101.'' 49 U.S.C. 13541(a)(1). Nor does FMCSA find that continued regulation under section 13906(b) and (c) ''is not needed to protect shippers from the abuse of market power.'' 49 U.S.C. 13541(a)(2). Finally, granting the exemption requested by SBTC is not in the public interest. 49 U.S.C. 13541(a)(3). Accordingly, SBTC's request is denied.

Meera Joshi,

Deputy Administrator.

[FR Doc. 2021–27220 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–EX–P

Fidelity Association of America, at 1; comments of JW Surety Bonds, at 1; comments of the Owner-Operator Independent Drivers Association, at 1–2.

[28] 80 FR at 17145 n.2.

[29] While FMCSA need not resolve the issue in today's decision, the Agency questions whether, in an industry dominated by small businesses, a 5-year exemption for brokers and freight forwarders with annual revenues below $15.01 million could fairly be considered one ''of limited scope.''

[30] SBTC Application, at 12.

[31] ATA also noted this burden in its comments. Comments of the American Trucking Associations, at 3 (''the burden of course is not on the Agency to demonstrate that the requirement is necessary, but on SBTC to establish that it is unnecessary.'').

[32] FMCSA notes that the unanimity among multiple associations representing multiple industries in opposition to SBTC's request is striking.

[33] SBTC Application, at 12.

[34] *Id.* at 5.

[35] The supply chain is a critical issue that the Department of Transportation is addressing in response to disruptions caused by the COVID–19 pandemic.

[36] See footnote 21 above.

[37] SBTC Application, at 5.

[38] *Id.* at 14. *See also* May 29, 2020 comments of the Small Business in Transportation Coalition, at 3.

[39] Comments of the Motor Carrier Regulatory Reform Coalition, at 2.

[40] *Id.* at 8. JW Surety Bonds also indicates that surety premiums are consistently low. Comments of JW Surety Bonds, at 1.

[41] Comments of the Motor Carrier Regulatory Reform Coalition, Affidavit of David Owen, at 1.

[42] SBTC May 29 comments, at 4.

[43] SBTC Application, at 4.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0278]

Agency Information Collection Activities; Emergency Approval of a Revision to a Currently-Approved Collection Request: Crime Prevention for Truckers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of request for emergency OMB approval.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that a revision to the Information Collection Request (ICR) discussed below has been forwarded to the Office of Management and Budget (OMB) for review and emergency approval. FMCSA will no longer be offering a $25 incentive for those who complete the survey. FMCSA is also making non-substantive changes

to the survey to make it easier to complete and to make the data collected more useful. The revised ICR describes the nature of the information collection and its expected paperwork burdens. FMCSA requests that OMB approve this collection by December 20, 2021.

DATES: Comments must be submitted on or before December 23, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within by December 23, 2021 to *www.reginfo.gov/public/do/PRAMain.* All comments received are part of the public record. Comments will generally be posted without change. Upon receiving the requested emergency approval by OMB, FMCSA will follow the normal PRA procedures to renew the information collection at its expiration date.

FOR FURTHER INFORMATION CONTACT: Jeff Loftus, Division Chief, Technology Division, Department of Transportation, FMCSA, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–385–2363; *email: jeff.loftus@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Crime Prevention for Truckers.

OMB Control Number: 2126–0071.

Type of Request: Request for emergency approval for a revision to a currently-approved information collection.

Respondents: All truck drivers.

Estimated Total Respondents: 1,320.

Estimated Total Responses: 1,320.

Estimated Burden Hours: 416.

Estimated Burden per Response: 20 minutes per response.

Frequency: Once.

Background: OMB approved the ''Crime Prevention for Truckers'' collection on May 14, 2021. After receiving approval, FMCSA moved forward in implementing the survey.

Originally, the survey was planned to be an in-person data collection, but the project team switched to an online data collection because of the pandemic. Within hours of posting the survey online, it reached its maximum number of responses. This occurred before FMCSA was able to reach out to all desired women's trucking associations to encourage participation by their members, thus undermining the purpose of the survey. No rewards were paid by the agency.

All proposed changes to the questions are de minimis or non-substantive and are primarily driven by changes to some of the skip patterns in the survey to make coding them on the online survey platform (SurveyMonkey) possible. The changes do slightly increase the time burden on the respondents, as they will need to respond to more questions instead of having the survey skip ahead. However, this increase is minimal.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2021–27219 Filed 12–15–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modifications to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 3, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety, General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 7, 2021.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
8757–M	Milton Roy, LLC	173.201(c), 173.202(c), 173.203(c), 173.302a(a)(1), 173.304a(a)(1), 180.205.	To modify the special permit by updating the drawing revision numbers. (modes 1, 2, 3, 4)
11180–M	Affival Inc	172.300, 172.400, 172.500, 173.1, 173.24(c)	To modify the special permit to authorize welded metal tubing and additional hazardous materials. (modes 1, 2, 3)
16061–M	Battery Solutions, LLC	172.102(c), 172.102(c)(1), 172.200, 172.300, 172.400, 172.500, 172.600, 172.700(a), 173.159a(c)(2), 173.185(c), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to authorize additional packagings and to clarify requirements of the special permit. (modes 1, 3)

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20470–M	Imperial Automotive Logistics GmbH.	172.101(j)	To modify the special permit to authorize additional authorized lithium ion batteries. (mode 4)

[FR Doc. 2021–27183 Filed 12–15–21; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 18, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety, General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 7, 2021.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21302–N	Taylor-Wharton Malaysia Sdn. Bhd.	173.316	To authorize the manufacture, mark, sale, and use of a specification DOT 4L cylinder for the transportation in commerce of the methane, refrigerated liquid. (mode 1)
21304–N	Freewire Technologies, Inc	172.101(j), 173.24(e)(4)	To authorize the transportation in commerce of lithium batteries contained in equipment, that exceed 35 kg net weight, by cargo-only aircraft. (mode 4)
21305–N	Cyanco International, LLC	180.605(e)	To authorize the transportation in commerce of portable tanks that are ultrasonically examined rather than visually inspected during periodic inspection. (modes 1, 2, 3)
21307–N	Packaging and Crating Technologies, LLC.	172.200, 172.300, 172.400, 172.700(a).	To authorize the manufacture, mark, sale and use of packaging for purposes of ''offering or reoffering'' lithium batteries for recycling, reuse, refurbishment, repurposing or evaluation without requiring shipping papers, marks, labels, or training. (modes 1, 2)
21308–N	Micropore, Inc	173.240(d)	To authorize the transportation in commerce of lithium hydroxide in non-DOT specification packaging by ground transport. (mode 1)
21309–N	Construction Helicopters, Inc	172.101(j), 173.27(b)(2)	To authorize the transportation in commerce of Division 1.1, 1.2, 1.3 and 1.4 explosives that are not permitted for transportation aboard cargo-only aircraft or are in quantities greater than those prescribed for transportation aboard cargo-only aircraft. (mode 4)
21310–N	Bolloré Logistics Germany Gmbh.	172.101(j), 173.301(f), 173.302a(a)(1), 173.304a(a)(2).	To authorize the transportation in commerce of certain Division 2.2 liquefied or compressed gases in non-specification packages for use in cooling applications for spacecraft and/or satellites. (modes 1, 4)
21311–N	Spaceflight, Inc	173.185(e)(3)	To authorize the transportation in commerce of prototype lithium batteries contained in equipment by motor vehicle. (mode 1)
21312–N	Moxion Power Co	172.102	To authorize the transportation in commerce of lithium batteries installed in a cargo transport unit. (mode 1)
21313–N	Federal Express Corporation		To authorize the transportation in commerce of hazardous materials aboard small aircraft that exceed the maximum take-off weight for small aircraft. (mode 4)

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21314–N	Samsung SDI America, Inc	172.101(j)	To authorize the transportation in commerce of lithium batteries exceeding 35 kg by cargo-only aircraft. (mode 4)

[FR Doc. 2021–27182 Filed 12–15–21; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before January 18, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 7, 2021.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
8215–M	Olin Winchester LLC	172.320, 172.400, 173.212, 173.56(b), 173.62(c).	To modify the special permit to authorize an additional packaging type and an additional facility.
10776–M	Bevin Bros Manufacturing Company.	173.302a(a)(1), 173.304a(a)(1).	To modify the special permit to authorize additional hazardous materials.
11634–M	The Avon Company	172.301(c), 173.24a(a)(3)	To modify the special permit to authorize a new proper shipping name to replace an obsolete proper shipping name in the special permit.
11646–M	Baker Petrolite LLC	172.203(a), 172.301(c), 177.834(h).	To modify the special permit to authorize an additional hazardous material.
20493–M	Tesla, Inc	172.101(j)	To modify the special permit to include additional cell types for use in the lithium ion battery.
21012–M	Linde Gas & Equipment Inc.	172.203(a), 180.209	To modify the special permit to remove the requirement for putting the SP number on shipping papers and to make it more consistent with similar special permits. (DOT–SP 15642, SP–14149)
21136–M	Cimarron Composites, LLC	173.302(a)(1)	To modify the special permit to remove references to insulated tubes.
21144–M	Consolidated Nuclear Security LLC.	173.56(b)	To modify the special permit to increase the maximum quantity per shipment to 3,025 gallons.
21268–N	Watco Companies, LLC	174.85	To authorize the transportation in commerce of hazardous materials by rail with one buffer car between placarded cars and the engines.
21269–N	Porsche Logistik Gmbh	172.101(j)	To authorize the transportation in commerce of certain lithium ion battery assemblies each with a net weight exceeding 35 kg aboard cargo-only aircraft.
21282–N	The Boeing Company	178.47	To authorize the transportation in commerce of DOT 4DS cylinders that have not been tested as required by 49 CFR 178.47.
Special Permits Data—Denied			
21069–M	Catalina Cylinders, Inc	173.302a, 178.71(l)(1)	To modify the special permit to authorize an additional requalification test method (pneumatic proof pressure).
21184–N	Arkema Inc	177.834(h)	To authorize the transportation in commerce of organic peroxide Type F material in UN IBCs without unloading the package from the vehicle prior to discharge.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Withdrawn			
9998–M	Accumulators, Inc	173.302(a)	To modify the special permit to authorize additional accumulator designs.

[FR Doc. 2021–27184 Filed 12–15–21; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Creditor's Request for Payment of Treasury Securities Belonging to a Decedent's Estate Being Settled Without Administration

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Creditor's Request For Payment of Treasury Securities Belonging To A Decedent's Estate Being Settled Without Administration.

DATES: Written comments should be received on or before February 14, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Creditor's Request For Payment of Treasury Securities Belonging To A Decedent's Estate Being Settled Without Administration.

OMB Number: 1530–0027.

Form Number: FS Form 1050.

Abstract: The information is requested to obtain a creditor's consent to dispose of savings bonds/notes in settlement of a deceased owner's estate without administration.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 2,200.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 220.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 10, 2021.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2021–27181 Filed 12–15–21; 8:45 am]
BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On December 6, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individual

MUKONDA MAYANDU, Alain, Kivu 32 BIS, Salongo, Kintambo, Kinshasa, Kinshasa, Congo, Democratic Republic of the; DOB 09 Feb 1976; nationality Congo, Democratic Republic of the; Gender Male; Passport OP0110491 (Congo, Democratic Republic of the) (individual) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(A)(1) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,'' 82 FR 60839, 3 CFR, 2018 Comp., p. 399, (E.O. 13818) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of GERTLER, Dan, a person whose property and interests in property are blocked pursuant to this order.

Entities

1. VENTORA GLOBAL SERVICES, 110 Boulevard Du 30 Juin, Immeuble Onze Treize, 8th Floor, Kinshasa, Kinshasa, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–00322 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: MUKONDA MAYANDU, Alain).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly,

MUKONDA MAYANDU, ALAIN, a person whose property and interests in property are blocked pursuant to this order.

2. VENTORA MINING S.A.S.U. (a.k.a. VENTORA MINING), 8th floor, Immeuble 1113, Boulevard Du 30 Juin No. 110, Gombe, Kinshasa, Kinshasa, Congo, Democratic Republic of the; Identification Number 01–83–N36154C (Congo, Democratic Republic of the); Commercial Registry Number CD/KNG/RCCM/18–B–01222 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: MUKONDA MAYANDU, Alain).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MUKONDA MAYANDU, ALAIN, a person whose property and interests in property are blocked pursuant to this order.

3. ASHDALE SETTLEMENT GERCO SAS (f.k.a. GERCO SAS), 67 Boulevard Du 30 Juin, Immeuble Golf, 5eme etage, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; 32 BIS, Avenue KIVU, Ngaliema, Kinshasa, Kinshasa, Congo, Democratic Republic of the; 8eme etage, immeuble 1113, Boulevard Du 30 Juin No. 110, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; 70 Batetela, Immeuble Tilipia, 5eme etage, Municipality of Gombe, Kinshasa, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/17–B–01379 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: MUKONDA MAYANDU, Alain).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MUKONDA MAYANDU, ALAIN, a person whose property and interests in property are blocked pursuant to this order.

4. GEMINI S.A.S.U., 8eme etage, Immeuble 1113, Boulevard Du 30 Juin No. 110, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01223 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: OPERA).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, OPERA, a person whose property and interests in property are blocked pursuant to this order.

5. KALTONA LIMITED SASU, Immeuble 1113, 8eme etage, No. 110 Boulevard Du 30 Juin, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01271 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: GEMINI S.A.S.U.).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, GEMINI S.A.S.U., a person whose property and interests in property are blocked pursuant to this order.

6. KINTALEG LIMITED, 57/63, Line Wall Road, Gibraltar GX11 1AA, Gibraltar; Organization Type: Activities of holding companies; Target Type Private Company [GLOMAG] (Linked To: MUKONDA MAYANDU, Alain).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MUKONDA MAYANDU, ALAIN, a person whose property and interests in property are blocked pursuant to this order.

7. MULTREE LIMITED SASU, Immeuble 1113, 8eme etage, No. 110 Boulevard Du 30 Juin, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01272 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: GEMINI S.A.S.U.).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, GEMINI S.A.S.U., a person whose property and interests in property are blocked pursuant to this order.

8. OPERA, 8eme etage, Immeuble 1113, Boulevard Du 30 Juin No. 110, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Organization Type: Activities of holding companies; Target Type Private Company; Commercial Registry Number CD/KNG/RCCM/18–B–01188 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: ASHDALE SETTLEMENT GERCO SAS).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ASHDALE SETTLEMENT GERCO SAS, a person whose property and interests in property are blocked pursuant to this order.

9. PALATINA SARLU, 67 Boulevard Du 30 Juin, Immeuble Golf, 5eme etage, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–00090 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: ASHDALE SETTLEMENT GERCO SAS).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ASHDALE SETTLEMENT GERCO SAS, a person whose property and interests in property are blocked pursuant to this order.

10. ROSEHILL DRC SASU, Immeuble 1113, 8eme etage, No. 110 Boulevard Du 30 Juin, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01317 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: WOODFORD ENTERPRISES LIMITED SASU).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WOODFORD ENTERPRISES LIMITED SASU, a person whose property and interests in property are blocked pursuant to this order.

11. WOODFORD ENTERPRISES LIMITED SASU, 8eme etage, Immeuble 1113, No. 110 Boulevard Du 30 Juin, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01274 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: GEMINI S.A.S.U.).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, GEMINI S.A.S.U., a person whose property and interests in property are blocked pursuant to this order.

12. WOODHAVEN DRC SASU, Immeuble 1113, 8eme etage, No. 110 Boulevard Du 30 Juin, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–01347 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: ROSEHILL DRC SASU).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ROSEHILL DRC SASU, a person whose property and interests in property are blocked pursuant to this order.

Additionally, on December 6, 2021, OFAC updated the SDN List for the following persons, whose property and interests in property continue to be blocked under the relevant sanctions authority listed below.

1. CAPRIKAT LIMITED, Akara Building, 24 Castro Street, Wickhams Cay 1, P.O. Box 3136, Road Town, Tortola, Virgin Islands, British; Public Registration Number 1577164 (Virgin Islands, British) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

2. FLEURETTE PROPERTIES LIMITED (a.k.a. FLEURETTE DUTCH GROUP; a.k.a. FLEURETTE GROUP; a.k.a. GROUPE FLEURETTE; a.k.a. KARIBU AU DEVELOPMENT DURABLE AU CONGO; a.k.a. VENTORA MINING), Strawinskylaan 335, WTC, B-Tower 3rd floor, Amsterdam 1077 XX, Netherlands; Gustav Mahlerplein 60, 7th Floor, ITO Tower, Amsterdam 1082 MA, Netherlands; 70 Batetela Avenue, Tilapia Building, 5th floor, Kinshasa, Gombe, Congo, Democratic Republic of the; 57/63 Line Wall Road, Gibraltar GX11 1AA, Gibraltar; Public Registration Number 99450 (Gibraltar) [GLOMAG] (Linked To: GERTLER, Dan).

3. VENTORA DEVELOPMENT SASU, Congo, Democratic Republic of the [GLOMAG] (Linked To: AFRICA HORIZONS INVESTMENT LIMITED).

The listing for these previously designated persons now appears as follows:

1. CAPRIKAT LIMITED (n.k.a. ALBERTINE DRC S.A.S.U), Akara Building, 24 Castro Street, Wickhams Cay 1, P.O. Box 3136, Road Town, Tortola, Virgin Islands, British; Boulevard du 30 Juin No 110, Building 1113, 8eme etage, Municipality of Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–00168 (Congo, Democratic Republic of the); Public Registration Number 1577164 (Virgin Islands, British) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

2. FLEURETTE PROPERTIES LIMITED (a.k.a. FLEURETTE DUTCH GROUP; a.k.a. FLEURETTE GROUP; a.k.a. GROUPE

FLEURETTE; a.k.a. KARIBU AU DEVELOPMENT DURABLE AU CONGO; a.k.a. VENTORA INVESTMENTS S.A.SU), Strawinskylaan 335, WTC, B-Tower 3rd floor, Amsterdam 1077 XX, Netherlands; Gustav Mahlerplein 60, 7th Floor, ITO Tower, Amsterdam 1082 MA, Netherlands; 70 Batetela Avenue, Tilapia Building, 5th floor, Gombe, Kinshasa, Congo, Democratic Republic of the; 57/63 Line Wall Road, Gibraltar GX11 1AA, Gibraltar; 8eme Etage, Immeuble 1113, Boulevard Du 30 Juin No 110, Commune De La Gombe, Kinshasa, Congo, Democratic Republic of the; Commercial Registry Number CD/KNG/RCCM/18–B–00630 (Congo, Democratic Republic of the); Public Registration Number 99450 (Gibraltar) [GLOMAG] (Linked To: GERTLER, Dan).

3. VENTORA DEVELOPMENT SASU, 08eme etage, Immeuble 1113, Boulevard Du 30 Juin No 110, Gombe, Kinshasa, Kinshasa, Congo, Democratic Republic of the; Identification Number 01–9–N36511Y (Congo, Democratic Republic of the); Commercial Registry Number CD/KNG/RCCM/18–B–01273 (Congo, Democratic Republic of the) [GLOMAG] (Linked To: AFRICA HORIZONS INVESTMENT LIMITED).

Authority: E.O. 13818, 82 FR 60839, 3 CFR, 2018 Comp., p. 399.

Dated: December 6, 2021.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–26852 Filed 12–15–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0682]

Agency Information Collection Activity: Advertising, Sales, Enrollment Materials, and Candidate Handbooks

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 14, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0682'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0682'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 CFR 21.4252(h).

Title: Advertising, Sales, Enrollment Materials, and Candidate Handbooks.

OMB Control Number: 2900–0682.

Type of Review: Revision of a currently approved collection.

Abstract: The statute prohibits approval of the enrollment of a Veteran in a course if the educational institution uses advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading either by actual statement, omission, or intimation. The advertising, sales and enrollment materials are reviewed to determine if the institution is in compliance with guidelines for approval.

Affected Public: Individuals and Households.

Estimated Annual Burden: 1,381 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 5,525.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer (Alt), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–27255 Filed 12–15–21; 8:45 am]

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