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FEDERAL REGISTER

Vol. 87 Tuesday

No. 40 March 1, 2022

Pages 11275–11580

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[Docket No. RHS–21–MFH–0026]

RIN 0575–AD17

Multi-Family Housing (MFH) Direct Loan Programs

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency), an agency in the United States Department of Agriculture (USDA) Rural Development Mission area, published a proposed rule in the **Federal Register** on September 23, 2020, to amend its regulations for the Multi-Family Housing Direct Loans and Grants Programs to implement changes related to the development of a sustainable plan for the Rental Assistance (RA) program. Through this action, RHS is adopting the changes as proposed. The regulation updates are intended to provide additional RA program flexibility and transparency, and to improve the efficiency of managing assets in the Direct Loan portfolio.

DATES: The final rule is effective March 31, 2022.

FOR FURTHER INFORMATION CONTACT: Jennifer Larson, Multi-Family Housing Asset Management Division, Rural Housing Service, Stop 0782, 1400 Independence Avenue SW, Washington, DC 20250–0782. Telephone 202–720–1615.

SUPPLEMENTARY INFORMATION:

I. Background Information

Rural Development (RD) is a mission area within the United States Department of Agriculture (USDA) comprised of the Rural Utilities Service (RUS), Rural Housing Service (RHS) and Rural Business-Cooperative Service (RBCS). RD's mission is to increase economic opportunity and improve the quality of life for all rural Americans. RD meets its mission by providing loans, loan guarantees, grants, and technical assistance through more than 40 programs aimed at creating and improving housing, businesses, and infrastructure throughout rural America. We help rural residents buy or rent safe, affordable housing and make health and safety repairs to their homes.

The RHS Multi-Family Housing (MFH) programs, provide affordable multi-family rental housing in rural areas by financing projects geared for low-income, elderly and disabled individuals and families as well as domestic farm laborers. MFH Programs extends its reach by guaranteeing loans for affordable rental housing designed for low to moderate-income residents in rural areas and towns. MFH Programs are administered, subject to appropriations, by the USDA as authorized under Sections 514, 515 and, 516 and 521 of the Housing Act of 1949, as amended. The Agency operates a multifamily rural rental housing direct loan program under section 515 for off-farm labor housing and section 514 for farm labor housing. The Agency also provides grants under the section 516 farm labor housing program and section 521 provides project-based rental assistance payments to property owners.

The RHS published a proposed rule on September 23, 2020 (85 FR 59682) to: (1) Implement programmatic changes related to development of a ''sustainability plan'' for the Rental Assistance (RA) Program, including new Agency flexibilities in managing the RA distribution; (2) integrate new asset management policies; and (3) incorporate technical corrections to clarify reference and formatting issues in the regulation. The purpose of this action is to finalize these provisions as proposed in the proposed rule on September 23, 2020.

RHS published an interim rule on November 26, 2004 (69 FR 69032), with an effective date of 2/24/2005. On February 22, 2005, a delay of effective date was published in the **Federal Register** (70 FR 8503) to indefinitely delay the following sections: 3560.152(a)(1), 3560.154(a)(7), 3560.156(c)(12), and 3560.254(c)(3). The delay of effective date remains in effect for these sections until a future final rule is published to lift the stay.

II. Comments and Responses

The 60-day comment period for the proposed rule ended on November 23, 2020. A total of 16 comments were received. Commenters included non-profit housing organizations or associations representing housing providers and private citizens.

The following actions in the proposed rule will be included in the final rule with full consideration of public comments, included below, with the Agency's responses.

Issue 1: A Commenter pointed to include change to § 3560.72 to consistently use ''Leadership Designee,'' instead of MFH Leadership Designee. As noted in the proposed rule, page 59684, the Agency's intent is to change State Director to Leadership Designee to allow flexibility for future staff. The commenter supported not limiting the change to only ''MFH Leadership Designee,'' for even greater flexibility.

Agency Response 1: The Agency acknowledges the commenter's support for this modification. The Agency agrees, as the commenter stated, that the language under § 3560.72 should be amended by removing the words 'State Director' and adding in their place 'Leadership Designee' in the second sentence of paragraph (b).

Issue 2: Several commenters requested more contact information about the Leadership Designee positions throughout the Agency.

Agency Response 2: The Agency has established a list of Field Operations servicing officials for all projects available on the public Rural Development website with email contact information provided for each team member. The Regional Director for each region is also provided on the public Rural Development website.

Issue 3: Several commenters requested more detail on the MFH program eligibility requirements regarding domestic farm laborers. This included persons legally admitted on a temporary or permanent basis, including the U.S. Citizenship and Immigration Services (USCIS) H2A Program for Temporary Agricultural Workers.

Agency Response 3: The proposed ''Domestic Farm Laborer'' definition reflects the Agency's compliance with the statutory requirements of the Consolidated Appropriations Act of 2018, permanently amending Section

514(f)(3)(A) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)(A)). The Agency believes that additional clarification is not required.

Issue 4: One commenter expressed concern that clarification regarding the Agency's authority to establish agency-held escrows in the proposed rule did not include an explanation as to why this authority is needed and did not place any conditions on the Agency's exercise of this authority. The commenter urged the Agency to remove this provision without an explanation of the need and establish standards for when this requirement can be imposed on a borrower.

Agency's Response 4: The proposed rule clarified that in § 3560.65, the authorization of an agency-held escrow account only applies to the Reserve Account. ''The Agency may establish an escrow account for the collection and disbursement of reserve account funds.'' This authority was historically included in the loan documents but was not addressed in the regulation. This provision was prompted by MFH borrowers that had identified Supervised Bank Account requirements in RD's regulations, which made it difficult to obtain these accounts with commercial banks. This amendment will allow the Agency, if needed, to establish an escrow reserve account to collect and disperse an MFH project's funds. The Agency finds that no change to the proposed regulatory language is needed.

Issue 5: Several commenters concurred that self-managed properties must also sign the Management Certification. Two commenters requested that additional tasks be mentioned as a project expense or an add-on fee to the management fee if required of the management agent. They also requested that outside payroll companies used to pay on-site staff, be an allowable expense to the property.

Agency's Response 5: The Agency finds that no change is required to the proposed rule language. The rule expands the language at § 3560.102(b) to clarify that performance assessments of management agents will be used when determining the allowable management fee, and that the management plan should describe whether administrative expenses are to be paid from management agent fees or project operations, including a task list of charges covered by the fee.

Issue 6: One commenter noted the Affirmative Fair Housing Marketing Plan (AFHMP) change in minimum required rental units to prepare and maintain an AFHMP increased from 4 to 5 units, and requested details on how many projects, would be affected by this change. This update allows the Agency to align with the Affirmative Fair Housing Marketing Plan (AFHMP) as defined in 24 CFR part 200, subpart M. Borrowers must comply with the requirements of the Fair Housing Amendments Act of 1988, and this section to meet their fair housing responsibilities.

Agency's Response 6: Currently, there are 95 4-unit Rural Rental Housing and Farm Labor Housing properties in the Multi-Family Housing portfolio. These properties will no longer be required to maintain an AFHMP.

Issue 7: Three commenters included praise for the proposed rule's changes to management flexibilities that would provide a more streamlined process by which RA funds can be made available. The commenters did not request any changes to the rule.

Agency's Response 7: The Agency acknowledges the commenters support.

Issue 8: One commenter requested that there first be notice and opportunity to resolve a late tenant certification submission to the Agency, so that the owner and manager can resolve the matter amongst themselves. The commenter did not approve of requiring the owner to pay overage, *i.e.,* to pay for a paperwork delay.

Agency's Response 8: The parameters established for timely tenant certification submission are beyond the scope of the proposed rule. The Agency notes that the timely submission of tenant certifications is a basic responsibility of the borrower/management agent under the MFH program's existing Loan Documents requirements. The proposed language clarifies that the borrower may lose RA as well. No change to the language is needed.

Issue 9: Two commenters expressed concern regarding the admission of persons with criminal histories. They pointed to the regulations not specifying whether a disqualification is only authorized when there was a conviction or if a mere arrest is sufficient. Additional concern regarded the privacy implications of checks on criminal history.

Agency's Response 9: The Agency finds that the proposed change has no impact on allowing exceptions for denial under the U.S. Department Housing and Urban Development (HUD) regulations in 24 CFR 5.854, 5.855, 5.856, 5.857. This also allows a time frame of 3 years from conviction. The Borrower must establish their own standards that prohibit admission of applicants with a criminal history, based on their determination of reasonable cause. This qualifies the individualized assessment requirement of an applicant's criminal background as per HUD's Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions issued on April 4, 2016, and the Fair Housing Act, 42 U.S.C. Sections 3601–19.

Issue 10: Several commenters requested that the Agency cross-reference the existing HUD Violence Against Women Act (VAWA) regulations or amend MFH program requirements in the lease requirement section so that owners and residents know what their respective rights and responsibilities are, including notices of VAWA rights, documentation, confidentiality, evictions, and transfers.

Agency Response 10: The Agency is working to update guidance on VAWA and will take recommendations into consideration. Additional changes may be included at that time.

Issue 11: Three of the commenters questioned whether there were unnecessary restrictions being placed on the eligibility for a Letter of Priority Engagement (LOPE).

Agency's Response 11: This is a misinterpretation of the change to this section. The regulation does not discuss the benefits for residents specifically due to a Federally declared disaster, under the Uniform Relocation Act. The LOPE would be based on the termination of occupancy beyond the resident's control, such as the unavailability of the unit due to rehabilitation, which may be due to a disaster. Further, the proposed changes reduce restrictions on timing of LOPE requests. This effectively adds that they do not have to wait until the expiration of the declaration.

Issue 12: Several commenters pointed out that the change in § 3560.205, regarding the notification of rent change, would better serve tenants to include ''at least'' 30 calendar days from the date of notification.

Agency's Response 12: The Agency agrees that this suggestion allows more ample notification, in some instances. The proposed revision will include ''at least'' before the 30 days from the date of notification.

Issue 13: Several commenters provided positive support for the clarification in RA eligibility requirements, for tenants or applicants with delinquent Agency unauthorized assistance repayment agreements. Several commenters discussed citizenship requirements under other

sections of the regulation, not included in the proposed rule.

Agency's Response 13: The Agency acknowledges the commenters' support. The citizenship requirement is not under the purview of the published amendments. This amendment applies only to tenants with unauthorized RA who are delinquent on their repayment agreement. This would apply in cases where it is known that the tenant is delinquent directly with the Agency. The requested changes would require an additional CFR to be removed, since the existing CFR does not require citizenship requirements. We will be providing more guidance on implementation on future handbook updates.

Issue 14: Several commenters provided positive support for the update in the proposed rule regarding the optional use of the remaining obligation balances of RA units, identified in § 3560.259(a)(2) and (3), for renewal purposes. However, some commenters were concerned that the ability to use ''inactive'' RA obligations will assist fewer residents (MFH tenants).

Agency's Response 14: The Agency acknowledges these concerns. The ability, however, to use ''inactive'' remaining RA obligations will assist more residents, rather than less residents. Further, the use of these ''inactive'' funds would not decrease the overall RA budget so in following years, new units of RA could be offered. By utilizing these funds, the Agency is protecting properties from payment shortfalls where the predicted amount of RA was misjudged. Furthermore, RA is funded through dollar amount and not by unit amount.

Issue 15: Several commenters stated opposition to the proposed change to § 3560.259, which clarifies that when any RA units have not been used for a 6-month period (for Section 515 properties) or 12 months (for Section 514 properties), they will be eligible for transfer. These commenters believed that this may reduce the total number of RA units and restrict eligible uses of RA. Additional concern regarded restricting the unused RA obligations to be used only for ''renewal purposes''. The inference is that this would reduce the number of RA units available for servicing or preservation.

Agency's Response 15: The Agency notes these concerns about the ability to use ''inactive'' RA obligations. This amendment will allow the Agency the flexibility to assist more residents, rather than fewer. Furthermore, the use of these ''inactive'' funds would not decrease the overall RA budget, so in following years new units of RA could be offered. By utilizing these funds, the Agency is protecting properties from payment shortfalls, where the predicted amount of RA was misjudged. Furthermore, RA is funded through dollar amount and not by unit amount. RA is not tied to a specific unit within the property; revolving vacancies would not affect whether there was unused RA over a 6-month period.

Issue 16: Some commenters suggested that the Agency include various project and management expenses, as allowable project expenses.

Agency's Response 16: The Agency acknowledges the need for consistency when appropriate; and acknowledges the need for clarity in eligible Section 514 and 515 property expenses. Property expenses are monitored by the Agency to ensure they are proper and reasonable; but as expenses increase, more income is needed, which results in rent increases and additional cost to rental assistance. Borrowers have often sought clarification on how expenses should be treated. Implementing this change will improve compliance, reduce unnecessary and unsupportable expenses, and result in stronger, more financially stable properties.

Issue 17: A commenter suggested non-ad valorem and special assessments need to be included as allowable project expenses as they are frequently included in a project's received tax notices.

Agency's Response 17: The Agency agrees with the comments and will include clarification to staff in the internal agency guidance to clarify that ''expenses relating to controlling or reducing taxes'' may include special assessments and service charges which are not based upon the value of the property and mileage.

Issue 18: One commenter requested a clarification of why asset management costs incurred by a non-profit entity must be prorated across all entities, and why this does not extend to all project owners. Other commenters requested more information on regulatory requirements not included in the proposed rule.

Agency's Response 18: The Agency appreciates the opportunity to address the issue on non-profit entities' asset management fee reimbursement of specifically identified costs. Specifically, for-profit entities are excluded due to the availability of financial means, such as the Return to Owner, to cover these costs.

The Agency acknowledges the additional questions on this section of the regulation, although not currently being revised. This will be taken under future consideration.

Issue 19: One commenter offered support for the requirement that needed capital improvements be completed within a reasonable time frame. The commenter requested guidance on what would be considered a ''reasonable time frame,'' particularly emergency improvements.

Agency's Response 19: The Agency appreciates the support on this revision, and notes that ''reasonable time frame'' allows flexibility for the property manager, the borrower, and the property.

Issue 20: One commenter objected to a conversion of project loans from the Daily Interest Accrual System (DIAS) to the Predetermined Amortization Schedule System (PASS). The commenter added that many owners are anticipating their loan maturity under DIAS, would be materially harmed if they de facto have their loan terms extended by a slower pay-down or recasting of principal and interest payments.

Agency's Response 20: The Agency notes the commenter's concerns about borrowers under the DIAS loan terms. The Agency finds that no change is needed since the proposed rule only shortens the sentence to ''loan servicing action''.

Issue 21: One commenter noted that the proposed rule changes from ''will'' to ''may'' in § 3560.656, which authorizes the Agency to offer an incentive to avoid prepayment. They noted that it would imply that the Agency will exercise discretion in offering incentives. The commenter believes that would be contrary to the current law.

Other commenters opposed the change, as they saw it as inconsistent with the mandatory obligation that Congress adopted for the express purpose of preserving and retaining to the maximum extent practicable. They commented that the Agency should abandon this change and continue to offer incentives to all owners seeking to prepay their loans.

Agency's Response 21: The Agency is implementing section 502(c)(4)(B) of the Housing Act, which uses the term ''may.'' The Agency finds that this correction is necessary, to align regulations with the Housing Act.

III. Summary of Changes

To increase transparency, improve efficiency in managing portfolio assets, and ensure compliance with program requirements; RHS will implement the following updates to 7 CFR part 3560 for the Section 514 Farm Labor Direct Loan, Section 515 Multi-family Housing Direct Loan, Section 516 Farm Labor Grant,

and Section 521 Rental Assistance Program.

(1) Update language to § 3560.259(d) regarding the optional use of the remaining obligation balances of units identified in § 3560.259(a)(2) and (3) for renewal purposes.

(2) Update § 3560.259(a)(4) to clarify that when any rental assistance units have not been used for a 6-month period (for Section 515 properties) or 12 months (for Section 514 properties) they will be eligible for transfer.

(3) The definitions of Domestic farm laborer, Management agreement, and Management fee will be revised to reflect requirements in the Consolidated Appropriations Act, 2018 (Pub. L. 115–141, March 23, 2018) permanently amending Section 514(f)(3)(A) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)(A)) that the FLH tenant eligibility includes ''a person legally admitted to the United States and authorized to work in agriculture.''

(4) Adding a paragraph at § 3560.65 to allow the Agency to establish an escrow account to collect and disperse funds. This will allow the Agency to establish agency-held escrows which historically was provided for in the loan documents but was not addressed in the regulation.

(5) In § 3560.303(a)(1), the Agency will require that the annual project budget include anticipated expenditures on the project's long-term capital needs as specified in § 3560.103(c) and will provide a metric for the Agency to determine current or future rent increase requests based on the Borrower's utilization of the reserve account. This will ensure that borrowers are utilizing project revenue for ongoing capital improvements needed to maintain compliance and reduced risk of the property.

(6) A change will be made to § 3560.303(c) to add payables as a priority for budget expenditures. This will allow for the Agency to ensure that all payables are being paid from project revenues in a timely manner and not accrued, without agency consent, causing increased costs and penalties and adding risk.

(7) In § 3560.303, the Agency will clarify what are allowable project expenses and provide for a comparable ''reasonableness'' test by the Agency. Generally, expenses charged to project operations for expenses, must be reasonable, typical, necessary and show a clear benefit to the residents of the property.

(8) In § 3560.303(b)(1)(vii), the Agency will add the requirements for a non-profit entity to pro-rate certain organizational reimbursable costs across all properties owned by that entity.

(9) In § 3560.105(f)(10), the Agency will clarify that if an insurance deductible is met, there is no need to track with a replacement reserve account.

(10) The Agency has updated the wording of ''State Director'' to ''Leadership Designee'' to allow for future staff flexibility.

(11) Update § 3560.152 by removing term ''elderly units in mixed housing''.

(12) The Agency will revise § 3560.154 to correct ''sex'' to ''gender'' and update policy on criminal activity for admissions.

(13) Update § 3560.205 to include the notification of all household members of rent change effective at least 30 days from date of notification.

(14) Section 3560.252 will now include the Agency's housing voucher program to allow for the proper allowance of rental subsidies.

(15) In § 3560.402 the Agency will clarify that any loan servicing action will require DIAS accounts to be converted to the current PASS system of accounting.

Executive Order 12866

The Office of Management and Budget (OMB) has designated this final rule as not significant under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies and Procedures''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on 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. This rule does not impose substantial direct compliance costs on State and local governments; therefore, consultation with States is not required.

Regulatory Flexibility Act

The final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or RD's Native American Coordinator at: *AIAN@usda.gov* to request such a consultation.

Programs Affected

The programs affected by this regulation are listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.427—Rural Rental Assistance Payments.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This final rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other information technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Non-Discrimination Statement

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

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov*.

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List of Subjects in 7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged, Conflict of interest, Government property management, Grant programs—housing and community development, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Rural Housing Service amends 7 CFR part 3560 as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart A—General Provisions and Definitions

§ 3560.8 [Amended]

■ 2. Amend § 3560.8 by removing the words ''State Director'' and adding in their place ''Leadership Designee'' in the last sentence.

■ 3. Amend § 3560.11 as follows:

■ a. Remove the acronym ''MFHMFH'' wherever it appears in the section and adding ''MFH'' in its place; and

■ b. Revise the definitions of ''Domestic farm laborer'', ''Management agreement'', and ''Management fee''.

The revisions read as follows:

§ 3560.11 Definitions.

* * * * *

Domestic farm laborer. A person who, consistent with the requirements in § 3560.576(b)(2), receives a substantial portion of his or her income from farm labor employment (not self-employed) in the United States, Puerto Rico, or the Virgin Islands and either is a citizen of the United States or resides in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, or a person legally admitted to the United States and authorized to work in agriculture. This definition may include the immediate family members residing with such a person.

* * * * *

Management agreement. A written agreement between a borrower and an identity-of-interest (IOI) management agent or independent fee management agent setting forth the management agent's responsibilities and fees for management services.

Management fee. The compensation provided to a management agent for services provided in accordance with an approved management certification, Form RD 3560–13, ''Multi-Family Project Borrower's/Management Agent's Management Certification.''

* * * * *

Subpart B—Direct Loan and Grant Origination

■ 4. Amend § 3560.65 by adding paragraph (d) to read as follows:

§ 3560.65 Reserve account.

* * * * *

(d) The agency may establish an escrow account for the collection and disbursement of reserve account funds.

§ 3560.72 [Amended]

■ 5. Amend § 3560.72 by removing the words ''State Director'' and adding in their place ''Leadership Designee'' in the second sentence of paragraph (b).

Subpart C—Borrower Management and Operations Responsibilities

■ 6. Amend § 3560.102 as follows:
■ a. Revise paragraph (b);
■ b. Remove the word ''and'' at the end of paragraph (g)(1)(ii);
■ c. Remove ''any of the above.'' at the end of paragraph (g)(1)(iii) and adding ''anyone listed in paragraphs (g)(1)(i) and (ii) of this section;'' in its place;
■ d. Add paragraph (g)(1)(iv); and
■ e. Revise paragraphs (i) and (j).

The revisions and addition read as follows:

§ 3560.102 Housing project management.

* * * * *

(b) *Management plan.* Borrowers must develop and maintain a management plan for each housing project covered by their loan or grant. The management plan must establish the systems and procedures necessary to ensure that housing project operations comply with Agency requirements in this part. The management plan should describe whether administrative expenses are to be paid from management agent fees or project operations, including a task list of charges covered by the fee as outlined in paragraph (i)(3)(i)(A) of this section. The management plan must meet the standards set out in this part.

* * * * *

(g) * * *

(1) * * *

(iv) Any borrower's entity control, or interest held or possessed by a person's spouse, parent, child, grandchild, or sibling or other relation by blood or marriage is attributed to that person for the determination under this paragraph (g)(1).

* * * * *

(i) *Management fees.* Management fees will be an allowable expense to be paid from the housing project's general operating account only if the fee is approved by the Agency as a reasonable cost to the housing project and documented on the management certification. Management fees must be developed in accordance with the following:

(1) The management fee may compensate the management entity for the following costs and services:

(i) Supervision by the management agent and its staff (time, knowledge, and expertise) of overall operations and capital improvements of the site.

(ii) Hiring, supervision, and termination of on-site staff.

(iii) General maintenance of project books and records (general ledger, accounts payable and receivable, payroll, etc.). Preparation and distribution of payroll for all on-site employees, including the costs of preparing and submitting all appropriate tax reports and deposits, unemployment and workers' compensation reports, and other IRS- or state-required reports.

(iv) In-house training provided to on-site staff by the management company.

(v) Preparation and submission of proposed annual budgets and negotiation of approval with the Agency.

(vi) Preparation and distribution of the Agency forms and routine financial reports to borrowers.

(vii) Preparation and distribution of required year-end reports to the Agency.

(viii) Preparation of requests for reserve withdrawals, rent increases, or other required adjustments.

(ix) Arranging for preparation by outside contractors of utility allowance analysis.

(x) Preparation and implementation of Affirmative Fair Housing Marketing Plans as well as general marketing plans and efforts.

(xi) Review of tenant certifications and submission of monthly rental assistance requests, and overage. Submission of payments where required.

(xii) Preparation, approval, and distribution of operating disbursements; oversight of project receipts; and reconciliation of deposits.

(xiii) Overhead of management agent, including:

(A) Establish, maintain, and control an accounting system sufficient to carry out accounting supervision responsibilities.

(B) Maintain agent office arrangements, staff, equipment, furniture, and services necessary to communicate effectively with the properties, to include consultation and support to site-staff, the Agency and with the borrowers.

(C) Postage expenses unrelated to site operation.

(D) Expense of telephone and facsimile communication, unrelated to site operations.

(E) Direct costs of insurance (fidelity bonds covering central office staff, computer and data coverage, general liability, etc.) directly related to protection of the funds and records of the borrower. Insurance coverage for agent's office and operations (Property, Auto, Liability, Errors and Omissions, Casualty, Workers Compensation, etc.).

(F) Central office staff training and ongoing certifications.

(G) Maintenance of all required profession and business licenses and permits. (This does not include project site office permits or licenses.)

(H) Travel of agent staff to the properties for on-site inspection, training, or supervision activities.

(I) Agent bookkeeping for their own business.

(xiv) Attendance at meetings (including travel) with tenants, owners, and the Agency or other governmental agency.

(xv) Development, preparation, and revision of management plans, agreements, and management certifications.

(xvi) Directing the investment of project funds into required accounts.

(xvii) Maintenance of bank accounts and monthly reconciliations.

(xviii) Preparation, request for, and disbursement of borrower's initial operating capital (for new projects) as well as administration of annual owner's return on investment.

(xix) Account maintenance, settlement, and disbursement of security deposits.

(xx) Working with auditors for initial Agency annual financial reports.

(xxi) Storage of records, to include electronic records, and adherence to records retention requirements.

(xxii) Assist on-site staff with tenant relations and problems. Provide assistance to on-site staff in severe actions (eviction, death, insurance loss, etc.).

(xxiii) Oversight of general and preventive maintenance procedures and policies.

(xxiv) Development and oversight of asset replacement plans.

(xxv) Oversight of preparation of section 504 reviews, development of plans, and implementation of improvements necessary to comply with plans and section 504 requirements.

(2) Management fees may consist of a base per occupied revenue producing unit fee and add-on fees for specific housing project characteristics. Management entities may be eligible to receive the full base per occupied unit

fee for any month or part of a month during which the unit is occupied.

(i) Periodically, the Agency will develop a range of base per occupied unit fees that will be paid in each state. The Agency will develop the fees based on a review of housing industry data. The final base for occupied unit fees for each state will be made available to all borrowers.

(ii) Periodically, the Agency will develop the amount and qualifications to receive add-on fees. The final set of qualifications will be made available to all borrowers.

(3) Management plans and agreements must describe if administrative expenses are to be paid from the management fee or paid for as a project cost.

(i) A task list should be used to identify which services are included in the management fee, which services are included in project operations, and which are pro-rated along with the methodology used to pro-rating of expenses between management agent fees and project operations. Some property responsibilities are completed at the property and some offsite. Agent responsibilities may be performed at the property, the management office, or at some other location.

(ii) Disputes may arise as to who performs certain services. The management plan and job descriptions should normally provide sufficient clarity to avoid or resolve any such disputes; however, sometimes clarifications and supporting materials may be required to resolve disputes. The decision must be made based on the most complete evaluation of the facts presented.

(j) *Management certification.* (1) As a condition of approval of project management, including borrowers who self-manage, borrower and management agents must execute an Agency-approved certification certifying that:

(i) Borrowers and management agent agree to operate the housing project in accordance with the management plan;

(ii) Borrowers and the management agent will comply with Agency requirements, loan or grant agreements, applicable local, State, Tribal, and Federal laws and ordinances, and contract obligations, will certify that no payments have been made to anyone in return for awarding the management contract to the management agent, and will agree that such payments will not be made in the future;

(iii) Borrowers and the management agent will comply with Agency notices or other policy directives that relate to the management of the housing project;

(iv) Management agreement between the borrower and management agent complies with the requirements of this section;

(v) Allowable management fees are assessed and paid out of the housing projects' general operating account. Borrowers and management agents will comply with Agency requirements regarding management fees as specified in paragraph (i) of this section, and allocation of management costs between the management fee and the housing project financial accounts specified in § 3560.302(c)(3);

(vi) The borrower and the management agent will not purchase goods and services from entities that have an identity-of-interest (IOI) with the borrower or the management agent until the IOI relationship has been disclosed to the Agency according to paragraph (g) of this section, not denied by the Agency under paragraph (d)(3) of this section, and it has been determined that the costs are as low as or lower than arms-length, open-market purchases; and

(vii) The borrower and the management agent agree that all records related to the housing project are the property of the housing project and that the Agency, OIG, or GAO may inspect the housing records and the records of the borrower, management agent, and suppliers of goods and services having an IOI with the borrower or with a management agent acting as an agent of the borrower upon demand.

(2) A certification will be executed each time new management is proposed and/or a management agreement is executed or renewed. Any amendment to a management certification must be approved by the Agency and the borrower.

* * * * *

■ 7. Amend § 3560.104 by revising paragraph (b)(1) to read as follows:

§ 3560.104 Fair housing.

* * * * *

(b) * * *

(1) Borrowers with housing projects that have five or more rental units must prepare and maintain an Affirmative Fair Housing Marketing Plan (AFHMP) as defined in 24 CFR part 200, subpart M.

* * * * *

■ 8. Amend § 3560.105 by revising paragraphs (c)(4) and (f)(10) to read as follows:

§ 3560.105 Insurance and taxes.

* * * * *

(c) * * *

(4) If the best insurance policy a borrower can obtain at the time the borrower receives the loan or grant contains a loss deductible clause greater than that allowed by paragraph (f)(9) of this section, the insurance policy and an explanation of the reasons why more adequate insurance is not available must be submitted to the Agency prior to loan or grant approval.

* * * * *

(f) * * *

(10) Deductible amounts (excluding flood, windstorm, earthquake and sinkhole insurance, or mine subsidence insurance) must be accounted for in the replacement reserve account, unless the deductible does not exceed the maximum deductible allowable as indicated in paragraph (f)(9)(i) of this section. Borrowers who wish to increase the deductible amount must deposit an additional amount to the reserve account equal to the difference between the Agency's maximum deductible and the requested new deductible. The Borrower will be required to maintain this additional amount so long as the higher deductible is in force.

* * * * *

Subpart D—Multi Family Housing Occupancy

■ 9. Amend § 3560.152 by revising paragraphs (c) heading and introductory text, (c)(1) introductory text, and (e)(2)(iv) to read as follows:

§ 3560.152 Tenant eligibility.

* * * * *

(c) *Requirements for elderly housing, congregate housing, and group homes.* In addition to the requirements of paragraph (a) of this section, the following occupancy requirements apply to elderly housing and congregate housing or group homes:

(1) For elderly housing and congregate housing, the following provisions apply:

* * * * *

(e) * * *

(2) * * *

(iv) Since tenant certifications are used to document interest credit and rental assistance eligibility and are a basic responsibility of the borrower under the loan documents, borrowers who fail to submit annual or updated tenant certification forms within the time period specified in paragraph (e)(2)(iii) of this section will be charged overage, as specified in § 3560.203(c) and lost rental assistance. Unauthorized assistance, if any, will be handled in accordance with subpart O of this part.

* * * * *

■ 10. Amend § 3560.154 by revising paragraphs (a)(9) introductory text and (j) to read as follows:

§ 3560.154 Tenant selection.

(a) * * *

(9) Race, ethnicity, and gender designation. The following disclosure notice shall be used:

* * * * *

(j) *Criminal activity.* Borrowers will deny admission for criminal activity or alcohol abuse by household members in accordance with the provisions of 24 CFR 5.854, 5.855, 5.856, and 5.857.

■ 11. Amend § 3560.156 as follows:

■ a. Revise paragraph (c)(1);

■ b. Remove ''and'' at the end of paragraph (c)(6)(iii);

■ c. Remove the period at the end of paragraph (c)(6)(iv) and add ''; and'' in its place;

■ d. Add paragraph (c)(6)(v); and

■ e. Revise paragraphs (c)(15) and (16).

The revisions and addition read as follows:

§ 3560.156 Lease requirements.

* * * * *

(c) * * *

(1) Leases for tenants who hold a Letter of Priority Entitlement (LOPE) issued according to § 3560.660(c) and are temporarily occupying a unit for which they are not eligible must include a clause establishing the tenant's responsibility to move when a suitable unit becomes available in the housing project.

* * * * *

(6) * * *

(v) The Violence Against Women Reauthorization Act of 2013 and any amendments thereto.

* * * * *

(15) Leases, including renewals, must include the following language:

''It is understood that the use, or possession, manufacture, sale, or distribution of an illegal controlled substance (as defined by local, State, Tribal or Federal law) while in or on any part of this apartment complex premises or cooperative is an illegal act. It is further understood that such action is a material lease violation. Such violations (hereafter called a ''drug violation'') may be evidenced upon the admission to or conviction of the use, possession, manufacture, sale, or distribution of a controlled substance (as defined by local, State, Tribal, or Federal law) in any local, State, Tribal or Federal court.

The landlord may require any lessee or other adult member of the tenant household occupying the unit (or other adult or non-adult person outside the tenant household who is using the unit) who commits a drug violation to vacate the leased unit permanently, within timeframes set by the landlord, and not thereafter to enter upon the landlord's premises or the lessee's unit without the landlord's prior consent as a condition for continued occupancy by the remaining members of the tenant's household. The landlord may deny consent for entry unless the person agrees to not commit a drug violation in the future and is either actively participating in a counseling or recovery program, complying with court orders related to a drug violation, or has successfully completed a counseling or recovery program.

The landlord may require any lessee to show evidence that any non-adult member of the tenant household occupying the unit, who committed a drug violation, agrees not to commit a drug violation in the future, and to show evidence that the person is either actively seeking or receiving assistance through a counseling or recovery program, complying with court orders related to a drug violation, or has successfully completed a counseling or recovery program within timeframes specified by the landlord as a condition for continued occupancy in the unit.

Should a further drug violation be committed by any non-adult person occupying the unit the landlord may require the person to be severed from tenancy as a condition for continued occupancy by the lessee.

If a person vacating the unit, as a result of the above policies, is one of the lessees, the person shall be severed from the tenancy and the lease shall continue among any other remaining lessees and the landlord. The landlord may also, at the option of the landlord, permit another adult member of the household to be a lessee.

Should any of the above provisions governing a drug violation be found to violate any of the laws of the land the remaining enforceable provisions shall remain in effect. The provisions set out above do not supplant any rights of tenants afforded by law.''

(16) Leases for rental units accessible to individuals with disabilities occupied by those not needing the accessibility features must establish the tenant's responsibility to move to another unit within 30-days of written notification that the unit is needed by an eligible qualified person with disabilities who requires the accessibility features of the unit. Additionally, the lease clause must ensure that the household may remain in the rental unit with accessibility features until an appropriately sized vacant unit within the project becomes available and then must move or vacate within 30 days of notification from borrower.

* * * * *

■ 12. Amend § 3560.158 by revising paragraph (d)(3) introductory text to read as follows:

§ 3560.158 Changes in tenant eligibility.

* * * * *

(d) * * *

(3) After the death of a tenant or co-tenant in elderly housing, the surviving members of the household, regardless of age but taking into consideration the conditions of paragraph (d)(1) of this section, may remain in the rental unit in which they were residing at the time of the tenant's or co-tenant's death, even if the household is over housed according to the housing project's occupancy rules except as follows:

* * * * *

■ 13. Amend § 3560.159 by revising paragraph (c) to read as follows:

§ 3560.159 Termination of occupancy.

* * * * *

(c) *Other terminations.* Should occupancy be terminated due to conditions which are beyond the control of the tenant, such as a condition related to required repair or rehabilitation of the building, or a natural disaster, and prior to expiration of the disaster declaration, the tenants who are affected by such a circumstance are entitled to benefits under the Uniform Relocation Act and may request a Letter of Priority Entitlement (LOPE) from the Agency. If tenants need additional time to secure replacement housing, the Agency may, at the tenant's request, extend the LOPE entitlement period.

* * * * *

Subpart E—Rents

■ 14. Amend § 3560.205 by revising paragraph (e) to read as follows:

§ 3560.205 Rent and utility allowance changes.

* * * * *

(e) *Approval.* If the Agency approves a rent or utility allowance increase request on which the comments were solicited, tenants or members receiving notice of a proposed rent or utility allowance change in accordance with paragraph (d)(2) of this section shall be notified of the rent or utility allowance change to be effective, at least 30 calendar days from the date of the notification.

* * * * *

■ 15. Amend § 3560.207 by revising paragraph (b) to read as follows:

§ 3560.207 Annual adjustment factors for Section 8 units.

* * * * *

(b) *Establishing rents in housing with HUD rent assistance.* Borrowers will set basic, note, and HUD contract rents for housing receiving HUD project-based Section 8 assistance, as specified in § 3560.202(c).

* * * * *

Subpart F—Rental Subsidies

■ 16. Amend § 3560.252 as follows:

■ a. Redesignate paragraphs (b)(2) through (4) as paragraphs (b)(3) through (5), respectively, and add new paragraph (b)(2); and

■ b. Revise paragraph (c)(2) introductory text.

The addition and revisions read as follows:

§ 3560.252 Authorized rental subsidies.

* * * * *

(b) * * *

(2) Agency housing vouchers;

* * * * *

(c) * * *

(2) Tenants with subsidies from sources other than the Agency may be eligible for Agency rental assistance if all the following conditions are met.

* * * * *

■ 17. Amend § 3560.254 by revising paragraphs (c)(1), (2), (4), and (5) and adding paragraph (c)(6) to read as follows:

§ 3560.254 Eligibility for rental assistance.

* * * * *

(c) * * *

(1) With very low- or low-incomes who are eligible to live in MFH;

(2) Whose net tenant contribution to rent determined in accordance with § 3560.203(a)(1) is less than the basic rent for the unit;

* * * * *

(4) Who meet the occupancy rules/policies established by the borrower in accordance with § 3560.155(e);

(5) Who have a signed, unexpired tenant certification form on file with the borrower; and

(6) Who is not delinquent on any Agency unauthorized assistance repayment agreements.

■ 18. Revise § 3560.258 to read as follows:

§ 3560.258 Terms of agreement.

(a) *Term of agreement.* Rental assistance agreements will have a term of the later of 12 months from the first disbursement of the obligation or when funds under the agreement are exhausted.

(b) *Replacing expiring obligations.* Rental assistance agreements may be renewed in accordance with § 3560.255(a)(1).

■ 19. Amend § 3560.259 by revising paragraphs (a)(3) and (4) and adding paragraph (d) to read as follows:

§ 3560.259 Transferring rental assistance.

(a) * * *

(3) After a liquidation, prepayment, or natural maturity;

(4) To the extent permitted by law, when any rental assistance units have not been used for a 6-month period (Section 515) or a 12-month period (Section 514 or 516); or

* * * * *

(d) *Agency use of obligation balances.* In lieu of transferring rental assistance units, the Agency may elect to utilize the remaining obligation balances of units identified in paragraphs (a)(2) and (3) of this section for renewal purposes.

Subpart G—Financial Management

■ 20. Amend § 3560.302 by revising paragraphs (c)(3)(ii) and (iii) and (c)(5)(i), (ii), and (iv) to read as follows:

§ 3560.302 Accounting, bookkeeping, budgeting, and financial management systems.

* * * * *

(c) * * *

(3) * * *

(ii) Real estate tax and insurance account (if not part of the general operating account or unless escrowed by the Agency);

(iii) Reserve account (unless escrowed by the Agency in accordance with § 3560.65);

* * * * *

(5) * * *

(i) All housing project funds must be held only in financial institution accounts insured by an agency of the Federal Government or held in securities meeting the conditions in this subpart.

(ii) Funds maintained in an institution may not exceed the limit established for Federal deposit insurance. Funds exceeding the Federally insured limit under a Tax ID Number must be moved to a different qualified banking institution that will ensure the funds unless the current financial institution provides additional surety such as a collateral pledge that may already be in place.

* * * * *

(iv) All funds received and held in any account, except the tenant security deposit, membership fee, and patron capital accounts, are considered assets of the property and must be held in trust by the borrower for the loan obligations until used and serve as security, through transfers or assumptions for the Agency loan or grant until all outstanding balances are satisfied.

* * * * *

■ 21. Revise § 3560.303 to read as follows:

§ 3560.303 Housing project budgets.

(a) *General requirements.* (1) Using an Agency-approved format, borrowers must submit to the Agency for approval a proposed annual housing project budget prior to the start of the housing project's fiscal year. The capital budget section of the annual project budget must include anticipated expenditures on the project's long-term capital needs as specified in § 3560.103(c) and will assist the Agency on utilization of the reserve account for current or future rent increase requests.

(2) Budget projections regarding income, expenses, vacancies, and contingencies must be realistic given the housing project's history, current circumstances, and market conditions.

(3) Borrowers must document that the operating expenses included in the budget accurately reflect reasonable and necessary costs to operate the housing project in a manner consistent with the objectives of the loan and in accordance with the applicable Agency requirements in this part.

(4) Borrower must submit supporting documentation to justify housing project utility allowances.

(5) Upon Agency request, borrowers must submit any additional documentation necessary to establish that applicable Agency requirements in this part have been met.

(b) *Allowable and unallowable project expenses.* Expenses charged to project operations, whether for management agent services or other expenses, must be reasonable, typical, necessary and show a clear benefit to the residents of the property. Services and expenses charged to the property must show value added and be for authorized purposes.

(1) *Allowable expenses.* Allowable expenses include those expenses that are directly attributable to housing project operations and are necessary to carry out successful operations.

(i) Housing project expenses must not duplicate expenses included in the management fee as defined in § 3560.102(i).

(ii) Actual costs for direct personnel costs of permanent and part-time staff assigned directly to the project site. This includes managers, maintenance staff, and temporary help including their:

(A) Gross salary;

(B) Employer Federal Insurance Contributions Act (FICA) contribution;

(C) Federal unemployment tax;
(D) State unemployment tax;
(E) Workers compensation insurance;
(F) Health insurance premiums;
(G) Cost of fidelity or comparable insurance;
(H) Leasing, performance incentive, or annual bonuses that are clearly provided for by the site manager salary contract;
(I) Direct costs of travel to off-site locations by on-site staff for property business or training; and/or
(J) Retirement benefits.
(iii) Legal fees directly related to the operation and management of the property including tenant lease enforcement actions, property tax appeals and suits, and the preparation of all legal documents.
(iv) All outside account and auditing fees, if required by the Agency, directly related to the preparation of the annual audit, partnership tax returns, and 401–K's, as well as other outside reports and year-end reports to the Agency, or other governmental agency.
(v) All repair and maintenance costs for the project including:
(A) Maintenance staffing costs and related expenses.
(B) Maintenance supplies.
(C) Contract repairs to the projects (*e.g.,* heating and air conditioning, painting, roofing).
(D) Make ready expenses including painting and repairs, flooring replacement, and appliance replacement as well as drapery or mini-blind replacement. (Turnover maintenance.)
(E) Preventive maintenance expenses including occupied unit repairs and maintenance as well as common area systems repairs and maintenance.
(F) Snow removal.
(G) Elevator repairs and maintenance contracts.
(H) Section 504 and other Fair Housing compliance modifications and maintenance.
(I) Landscaping maintenance, replacements, and seasonal plantings.
(J) Pest control services.
(K) Other related maintenance expenses.
(vi) All operational costs related to the project including:
(A) The costs of obtaining and receiving credit reports, police reports, and other checks related to tenant selection criteria for prospective residents.
(B) Photocopying or printing expense related to actual production of project brochures, marketing pieces, forms, reports, notices, and newsletters are allowable project expenses no matter what location or point of origin the work is performed including outsourcing the work to a professional printer.
(C) All bank charges related to the property including purchases of supplies (*e.g.,* checks, deposit slips, returned check fees, service fees).
(D) Costs of site-based telephone including initial installation, basic services, directory listings, and long-distances charges.
(E) All advertising costs related specifically to the operations of that project. This can include advertising for applicants or employees in newspapers, newsletters, social media, radio, cable TV, and telephone books.
(F) Postage expense to mail out rental applications, third-party (asset income and adjustments to income) verifications, application processing correspondence (acceptance or denial letters), mailing project invoice payments, required correspondence, report submittals to various regulatory authorities for the managed property are allowable project expenses no matter what location or point of origin the mail is generated.
(G) State taxes and other mandated Tribal, State, or local fees as well as other relevant expenses required for operation of the property by a third-party governmental unit. Costs of continuation financing statements and site license and permit costs.
(H) Expenses related to site utilities.
(I) Site office furniture and equipment including site-based computer and copiers. Service agreements and warranties for copiers, telephone systems and computers are also included (if approved by the Agency).
(J) Real estate taxes (personal tangible property and real property taxes) and expenses related to controlling or reducing taxes.
(K) All costs of insurance including property liability and casualty as well as fidelity or crime and dishonesty coverage for on-site employees and the owners.
(L) All bookkeeping supplies and recordkeeping items related to costs of collecting rents on-site.
(M) All office supplies and copies related to costs of preparing and maintaining tenant files and processing tenant certifications to include electronic storage.
(N) Public relations expense relative to maintaining positive relationships between the local community and the tenants with the management staff and the borrowers. Chamber of Commerce dues, contributions to local charity events, and sponsorship of tenant activities, are examples.
(O) Tax credit compliance monitoring fees imposed by Housing Finance Authorities (HFAs).
(P) All insurance deductibles as well as adjuster expenses.
(Q) Professional service contracts (audits, owner-certified submissions in accordance with § 3560.308(a)(2), tax returns, energy audits, utility allowances, architectural, construction, rehabilitation and inspection contracts, capital needs assessments (CNA), etc.).
(R) Association dues to be paid by the project should be related to training for site managers or management agents. To the extent that association dues can document training for site managers or management agents related to project activities by actual cost or pro-ration, a reasonable expense may be billed to the project.
(S) Legal fees if found not guilty of civil lawsuits, commercially reasonable legal expenses and costs for defending or settling lawsuits.
(vii) With prior Agency approval, cooperatives and nonprofit organizations may use housing project funds to reimburse actual and typical asset management expenses directly attributable to ownership responsibilities. Such expenses may include:
(A) Errors and omissions insurance policy for the Board of Directors. The cost must be prorated if the policy covers multiple Agency housing properties.
(B) Board of Directors review and approval of proposed Agency's annual operating budgets, including proposed repair and replacement outlays and accruals. The cost must be prorated if the policy covers multiple Agency housing properties.
(C) Board of Directors review and approval of capital expenditures, financial statements, and consideration of any management comments noted. The cost must be prorated if the policy covers multiple Agency housing properties.
(D) The cost must be prorated if the policy covers multiple Agency housing properties.
(viii) Agency approved third party debt service for the project.
(2) *Unallowable expenses.* Housing project funds may not be used for any of the following:
(i) Equity skimming as defined in 42 U.S.C. 543(a);
(ii) Purposes unrelated to the housing project;
(iii) Reimbursement of inaccurate or false claims;
(iv) Court ordered settlement agreements, court ordered decrees, legal fees, or other costs that result from the

filing of civil rights complaints or legal action alleging the borrower, or a representative of the borrower, has committed a civil rights violation. It is inappropriate to charge for legal services to represent any interest other than the borrower's interest (*i.e.,* representing a general partner or limited partner to defend their individual owner interest is not allowable);

(v) Fines, penalties, and legal fees where the borrower or a borrower's representative has been found guilty of violating laws, including, but not limited to, civil rights, and building codes. Charging for payment of penalties including opposition legal fees resulting from an award finding improper actions on the part of the owner or management agent is generally an inappropriate project expense. The party responsible generally pays such expenses for violating the standards or by their insurance carriers;

(vi) Association dues unless related to training for site managers or management agents. To the extent that association dues can document training for site managers or management agents related to project activities by actual cost or pro-ration, a reasonable expense may be billed to the project;

(vii) Pay for bonuses or monetary performance awards to site managers or management agents that are not clearly provided for by the site manager salary contract;

(viii) Billing for parties or gifts to management agent staff;

(ix) Billing for practices that are inefficient such as routine use of collect calls from a site manager to a management agent office;

(x) Billing the project for computer hardware, some software, and internal connections that are beyond the scope and size reasonably needed for the services supplied (*i.e.,* purchasing equipment or software for use by a site manager that is clearly beyond that needed to support project operations). Note that computer learning center activities benefiting tenants are not covered in this prohibition; or

(xi) Costs of tenant services.

(c) *Priorities.* The priority order of planned and actual budget expenditures will be:

(1) Senior position lienholder, if any;

(2) Operating and maintenance expenses, including taxes and insurance;

(3) Agency debt payments;

(4) Reserve account requirements;

(5) All accounts payable;

(6) Other authorized expenditures; and

(7) Return on owner investment.

(d) *Determining if expenses are reasonable.* Generally, expenses charged to project operations, whether for management agent services or other expenses, must be reasonable, typical, necessary and show a clear benefit to the residents of the property. Services and expenses charged to the property must show value added and be for authorized purposes. If such value is not apparent, the service or expense should be examined.

(1) Administrative expenses for project operations exceeding 23 percent, or those typical for the area, of gross potential basic rents and revenues (*i.e.,* referred to as gross potential rents in industry publications) highlight a need for closer review for unnecessary expenditures. Budget approval is required, and project resources may not always permit an otherwise allowable expense to be incurred if it is not fiscally prudent in the market.

(2) Excessive administrative expenses can result in inadequate funds to meet other essential project needs, including expenditures for repair and maintenance needed to keep the project in sound physical condition. Actions that are improper or not fiscally prudent may warrant budget denial and/or a demand for recovery action.

(e) *Agency review and approval.* (1) The Agency will only approve housing project budgets that meet the requirements of paragraphs (a) through (d) of this section.

(2) If no rent change is requested, borrowers must submit budget documents for Agency approval 60 calendar days prior to the start of the housing project's fiscal year. The Agency will notify borrowers if the budget submission does not meet the requirements of paragraphs (a) through (d) of this section. The borrower will have 10 days to submit the additional material.

(3) If a rent change is requested, the borrower must submit budget documents to the Agency and notify tenants of the requested rent change at least 90 calendar days prior to the start of the housing project's fiscal year.

(i) The Agency will notify borrowers if the budget submission does not meet the requirements of paragraphs (a) through (d) of this section, or if the rent and utility allowance request has been denied in accordance with § 3560.205(f). The borrower will have 10 days to submit the additional material to address any issues raised by the Agency.

(ii) The rent change is not approved until the Agency issues a written approval. If there is no response from the Agency within the 30-day period, the rent change is considered automatic. The following budgets are not eligible for automatic approval:

(A) Budgets with rent increases above $25 per unit; and

(B) Budgets that are submitted late or that miss other deadlines set by the Agency.

(4) If the Agency denies the budget approval, the Agency will notify the borrower in writing.

(5) If budget approval is denied, the borrower shall continue to operate the housing project based on the most recently approved budget.

■ 22. Amend § 3560.306 as follows:

■ a. Revise paragraphs (a), (b), (d), and (e)(2);

■ b. Redesignate paragraphs (g)(2) through (5) as paragraphs (g)(3) through (6), respectively, and add new paragraph (g)(2); and

■ c. Redesignate paragraph (j)(2) as paragraph (j)(3) and add new paragraph (j)(2).

The revisions and additions read as follows:

§ 3560.306 Reserve account.

(a) *Purpose.* To meet the major capital expense needs of a housing project, borrowers must establish and maintain a reserve account, unless escrowed by the Agency.

(b) *Financial management of the reserve account.* Unless otherwise approved by the Agency, borrower management of the reserve account is subject to the requirements of 7 CFR part 1902, subpart A, regarding supervised bank accounts.

* * * * *

(d) *Transfer of surplus general operating account funds.* (1) The general operating account will be deemed to contain surplus funds when the balance at the end of the housing project's fiscal year, after all payables and priorities, exceeds 20 percent of the operating and maintenance expenses. If the borrower is escrowing taxes and insurance premiums, include the amount that should be escrowed by year end and subtract such tax and insurance premiums from operating and maintenance expenses used to calculate 20 percent of the operating and maintenance expenses.

(2) If a housing project's general operating account has surplus funds at the end of the housing project's fiscal year as defined in paragraph (d)(1) of this section, the Agency will require the borrower to use the surplus funds to address capital needs, make a deposit in the housing project's reserve account, reduce the debt service on the borrower's loan, or reduce rents in the following year. At the end of the borrower's fiscal year, if the borrower is required to transfer surplus funds from

the general operating account to the reserve account, the transfer does not change the future required contributions to the reserve account.

(e) * * *

(2) Reserve accounts must be supervised accounts that require the Agency to approve all withdrawals; except, this requirement is not applicable when loan funds guaranteed by the Section 538 GRRH program are used for the construction and/or rehabilitation of a direct MFH loan project. Direct MFH loan borrowers, who are exempted from the supervised account requirement, as described in this section, must follow Section 538 GRRH program regulatory requirements pertaining to reserve accounts. In all cases, Section 538 lenders must get prior written approval from the Agency before reserve account funds involving a direct MFH loan project can be disbursed to the borrower.

* * * * *

(g) * * *

(2) Borrowers should include any needed capital improvements based on the needs identified in an Agency approved Capital Needs Assessment (if obtained) are completed within a reasonable timeframe.

* * * * *

(j) * * *

(2) The Agency will allow for an annual adjustment to increase reserve account funding levels by Operating Cost Adjustment Factor (OCAF) as published by HUD annually. This will require a modification to the Loan agreement and the increase documented with budget submission as outlined in § 3560.303.

* * * * *

Subpart I—Servicing

■ 23. Amend § 3560.402 by revising paragraph (b) to read as follows:

§ 3560.402 Loan payment processing.

* * * * *

(b) *Required conversion to PASS.* Borrowers with Daily Interest Accrual System (DIAS) accounts must convert to PASS with any loan servicing action.

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Subpart L—Off Farm Labor Housing

§ 3560.576 [Amended]

■ 24. Amend § 3560.576 by removing the words ''State Director's'' and adding in their place ''MFH Leadership Designee's'' in paragraph (e).

Subpart N—Housing Preservation

§ 3560.656 [Amended]

■ 25. Amend § 3560.656 by removing the word ''will'' and replacing it with ''may'' in paragraph (a) introductory text.

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2022–03837 Filed 2–28–22; 8:45 am]

BILLING CODE 3410–XV–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Bulletin 2022–03: Servicer Responsibilities in Public Service Loan Forgiveness Communications

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Compliance bulletin and policy guidance.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is issuing this Compliance Bulletin and Policy Guidance (Bulletin) regarding the servicing of Federal student loans, including Federal Family Education Loan Program and Perkins loans, for borrowers who may be eligible for Public Service Loan Forgiveness (PSLF). The Limited PSLF Waiver announced by the Department of Education on October 6, 2021 (PSLF Waiver) significantly changes the program's eligibility criteria for a limited period. In communicating with borrowers about the PSLF program, servicers should consider taking certain actions to ensure compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act's (Dodd-Frank Act's) prohibition on unfair, deceptive, or abusive acts or practices (collectively, UDAAPs). In its oversight, the CFPB will be paying particular attention to whether student loan servicers provide complete and accurate information to consumers about the benefits they can receive under the PSLF Waiver and eligibility for PSLF generally.

DATES: This bulletin is applicable on March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Matt Liles, Counsel, Office of Supervision Policy at 202–435–7435 or Carolyn Hahn, Senior Counsel, Office of Enforcement at 202–435–7212. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Student debt in the United States recently topped over $1.75 trillion. PSLF is a benefit provided by Congress to Federal student loan borrowers to earn forgiveness of their Federal student loans after 10 years of public service. The U.S. Department of Education estimates that over 1.3 million student loan borrowers work in jobs that qualify for PSLF; moreover, hundreds of thousands of these borrowers have expressed interest in PSLF by filing forms to certify their public service employment.[1]

The CFPB's supervisory work has revealed unfair or deceptive practices by student loan servicers that prevented many borrowers from making progress towards forgiveness. Accordingly, the CFPB is issuing this Bulletin to highlight the significant changes to PSLF eligibility criteria under the new waiver and the CFPB's supervision and enforcement priorities with respect to PSLF and the PSLF Waiver.

The Public Service Loan Forgiveness Program

To qualify for PSLF under the original requirements, a borrower had to make 120 on-time payments on a Direct Loan, while on a qualifying repayment plan, and while working in a qualifying public service job.[2] In 2018, Congress created Temporary Expanded Public Service Loan Forgiveness (TEPSLF) which allows some borrowers to qualify for forgiveness based on payments made under repayment plans that were previously ineligible.

The PSLF Waiver

In October 2021, in response to the COVID–19 national emergency, the Department of Education announced a temporary easing of some PSLF program requirements to help many previously ineligible borrowers receive forgiveness based on their qualifying public service employment regardless of their loan type or repayment plan.[3] Importantly, the PSLF Waiver allows borrowers with Federal Family Education Loan Program (FFELP) and Perkins loans to consolidate into a Direct Loan and receive credit toward loan forgiveness under PSLF for periods of repayment on the earlier loan(s). It also provides the same benefit to existing Direct Consolidation Loan borrowers resulting

[1] PSLF Report, September 2021 *available at https://studentaid.gov/sites/default/files/fsawg/datacenter/library/pslf-sep2021.xls.*

[2] 34 CFR 685.219(c).

[3] *See* Press Release, Federal Student Aid, *Public Service Loan Forgiveness Limited Waiver Opportunity, available at https://studentaid.gov/announcements-events/pslf-limited-waiver.*

in the forgiveness of tens of thousands of borrowers' loans automatically.[4] The PSLF Waiver credits any month that a Federal student loan borrower worked in public service and was in active repayment towards the 120 payments required for PSLF. The PSLF Waiver is intended to address several common problems borrowers have experienced in obtaining loan forgiveness, including where the borrower:

- Worked in a qualifying public service job but had Federal loans that were not Direct Loans;
- made payments on a Direct Loan while working in a qualifying public service job, but not on a qualified repayment plan;
- made payments on a Direct Loan while working in a qualifying public service job and on a qualifying repayment plan, but made underpayments or late payments;
- made 120 qualifying payments while working in public service but applied for forgiveness after having left public service; [5] or
- was a member of the military who did not receive credit for periods of deferment or forbearance while serving on active duty.

The impact of the PSLF Waiver could be large and far-reaching. But many borrowers who could benefit under the PSLF Waiver will need to take affirmative action before the October 31, 2022 deadline. To take advantage of the PSLF Waiver, borrowers without Direct Loans (such as Perkins loans or FFELP loans) must consolidate into a Direct Consolidation Loan and then file a PSLF form certifying their previous public service employment. Most borrowers who have Direct Loans and want credit for previously non-qualifying payments will need to file PSLF forms certifying their previous periods of public service employment. The Department of Education estimates that 27,000 Direct Loan PSLF borrowers could receive $2.82 billion in forgiveness merely by certifying periods of prior public service employment that were previously ineligible.[6]

II. Unfair and Deceptive Acts or Practices Related to PSLF

The CFPB has authority to oversee student loan servicing, including citing servicers for unfair, deceptive, or abusive acts or practices.[7] As described in previous *Supervisory Highlights,* CFPB examiners have uncovered deceptive student loan servicing practices, including the following with respect to PSLF.

Deceptive Statements to FFELP Borrowers About Consolidating Into a Direct Loan

Prior to the PSLF Waiver, only payments made on Direct Loans qualified for progress towards loan forgiveness under PSLF.[8] Any payment a borrower made on other types of Federal loans—such as Perkins Loans or FFELP loans—did not count towards the 120 payments required to achieve forgiveness. Instead, to pursue PSLF, Federal student loan borrowers who did not have Direct Loans had to first consolidate those loans into a Direct Consolidation Loan before their payments would begin to count towards forgiveness. Thus, prior to the PSLF Waiver, borrowers could convert their FFELP or Perkins loans into Direct Consolidation Loans to benefit under the PSLF program.

CFPB examiners have determined that servicers misled borrowers about their loan's PSLF eligibility.[9] For example, examiners have found that servicers committed a deceptive practice by leading FFELP borrowers to believe that they had no potential course of action to become eligible for PSLF, when the borrowers could consolidate their FFELP loans into a Direct Consolidation Loan and pursue PSLF.[10]

Deceptive Statements About Qualifying Public Service Employment

CFPB examiners also uncovered potentially deceptive statements to PSLF borrowers about whether their jobs qualified for PSLF. For example, examiners have found that servicers risked committing a deceptive practice by telling borrowers that only non-profit jobs qualify for PSLF even though government jobs also qualify.[11]

Misrepresenting the Effect of Filing an Employment Certification Form (ECF)

Borrowers previously submitted ECFs signed by their employers to verify their periods of public service employment.[12] CFPB examiners found that servicers committed a deceptive act or practice by misrepresenting the effect of filing the ECF for borrowers who had FFELP loans, but who did not have any Direct Loans. Servicer employees represented to FFELP borrowers that if they submitted an ECF they would learn whether their employment qualified for PSLF. However, borrowers would not receive a determination about employer eligibility because the ECF would be immediately denied because of their ineligible FFELP loans.[13]

III. The CFPB's Supervision and Enforcement Priorities

Prior supervisory observations and consumer complaints show that servicers were not adequately complying with the law, and were making deceptive representations about PSLF before the PSLF Waiver went into effect.[14] As servicers administer the new PSLF Waiver, the CFPB expects servicers to comply with Federal consumer financial protection laws. The CFPB plans to prioritize student loan servicing oversight work in deploying its enforcement and supervision resources in the coming year with a specific focus on monitoring engagement with borrowers about PSLF and the PSLF Waiver. Where the CFPB

[4] *See* Press Release, Federal Student Aid, *U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness, available at https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness* (estimating these borrowers will discharge $1.74 billion in student loan debt).

[5] PSLF requires borrowers to not only work in public service when they make the 120 qualifying payments, but also when they apply for forgiveness and when it is granted. 34 CFR 685.219(c)(1)(ii)(B–C).

[6] *Press Release supra* n. 4.

[7] *See* title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law 111–203, 124 Stat. 1376 (2010) (establishing the CFPB's authority). Under the Dodd-Frank Act, all covered persons or service providers are prohibited from committing unfair, deceptive, or abusive acts or practices in violation of the Act. An act or practice is unfair when (i) it causes or is likely to cause substantial injury to consumers; (ii) the injury is not reasonably avoidable by consumers; and (iii) the injury is not outweighed by countervailing benefits to consumers or to competition. *Id.* at sections 1031, 1036; 12 U.S.C. 5531, 5536. Whether an act or practice is deceptive is informed by decades of precedent involving Section 5 of the Federal Trade Commission Act. *See* CFPB Exam Manual at UDAAP 5.

[8] 34 CFR 685.219(c)(1)(iii).

[9] If a supervisory matter is referred to the Office of Enforcement, Enforcement may cite additional violations based on these facts or uncover additional information that could impact the conclusion as to what violations may exist.

[10] *Supervisory Highlights,* Issue 24—Summer 2021 at 35–37 available at *https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-issue-24-summer-2021/.*

[11] *Id.* at 36–37.

[12] Borrowers now certify their employment and apply for PSLF on a single consolidated PSLF form.

[13] *Supervisory Highlights,* Issue 24—Summer 2021 at 35–36.

[14] *See* Consumer Financial Protection Bureau (CFPB), *Staying on Track While Giving Back* (June 2017), *available at https://www.consumerfinance.gov/data-research/research-reports/staying-track-while-giving-back-cost-student-loan-servicing-breakdowns-people-serving-their-communities/.*

finds entities have committed UDAAPs related to PSLF and the PSLF Waiver, the CFPB will hold them accountable.

In its student loan servicing oversight work, the CFPB plans to pay particular attention to:

1. Whether servicers of any federal loan type provide complete and accurate information about the PSLF Waiver when discussing PSLF or loan consolidation in any communications;

2. Whether servicers have adequate policies and procedures to recognize when borrowers are expressing interest in PSLF or the PSLF Waiver or whose files otherwise demonstrate their eligibility and to direct those borrowers to appropriate resources;

3. Whether servicers take steps to promote the benefits of the PSLF waiver to borrowers who express interest or whose files otherwise demonstrate their eligibility.

IV. Compliance Management Program Expectations

To prevent unfair, deceptive, or abusive acts or practices, entities should consider enhancing their compliance management systems to develop and implement policies and procedures to ensure that all borrowers receive accurate and complete information about the PSLF Waiver and representatives facilitate their enrollment,[15] including by:

- Improving training to make sure representatives effectively identify borrowers who may be pursuing PSLF, who have provided information suggesting that they may benefit from the PSLF Waiver, or who are expressing interest in PSLF or the PSLF Waiver;
- improving training to make sure representatives accurately describe PSLF and the PSLF Waiver, their benefits, the process for applying for PSLF, using the Waiver, and the need to act before the October 31, 2022, deadline, including for representatives that interact with borrowers of FFELP and Perkins loans;
- updating call scripts to prompt representatives to inform borrowers who have provided information suggesting they may benefit from the PSLF Waiver about the benefits of the PSLF Waiver, and the importance of consolidating and filing a PSLF form for every job with an eligible employer before the October 31, 2022, deadline;
- enhancing existing communication tools, such as:
  - Posting a dedicated PSLF Waiver information page on the servicer's website that stresses the benefits of the waiver, explains who is eligible for the waiver, provides the steps for using the waiver, and emphasizes the need to apply for the waiver by October 31, 2022;
  - posting a temporary banner on the servicer's main web page and account log-in web page advertising the PSLF Waiver and linking the borrower to the dedicated PSLF Waiver information page, and
  - including information on the PSLF Waiver on automated hold messages;
- tracking borrower interest in using the PSLF Waiver to allow for targeted follow up;
- monitoring representatives' communications with borrowers about PSLF;
- evaluating these issues through the servicer's quality control/assurance program, compliance testing program, and audit program at appropriate intervals;
- actively monitoring for and addressing systemic issues—such as excessive call hold times—that inhibit PSLF borrowers from getting information from the entity about PSLF;
- regularly reviewing consumer complaints regarding PSLF and ensuring there is an appropriate channel for receiving, investigating, determining root causes, and properly resolving consumer complaints relating to misinformation about PSLF;
- ensuring that borrowers' consolidation decisions are honored timely, including by processing consolidation applications and providing payoff amounts timely; and
- ensuring that borrowers' PSLF forms are processed timely.

Generally, self-identification of Federal consumer financial law violations and developing an effective corrective action plan that includes complete identification of affected populations and complete remediation for injured consumers are important elements of a strong compliance management system. When these violations relate to providing false or misleading information about PSLF, a robust and affirmative outreach strategy to all potentially eligible consumers about the PSLF Waiver, tailored to the borrower's loan type, may be an important component of a corrective action plan. These actions also factor into the CFPB's decision about whether specific violations should be handled through supervisory or enforcement action.

CFPB Consideration of Proactive Efforts by Servicers To Promote the PSLF Waiver

In exercising its supervisory and enforcement discretion, the CFPB will consider the extent to which entities engage in proactive measures to promote the benefits of the PSLF Waiver to borrowers. For example, servicers can update call scripts to prompt representatives to affirmatively ask borrowers if they work or have worked for a nonprofit or government organization. In addition, servicers already use the Defense Manpower Database Center (DMDC) or other comparable means to identify military borrowers for purposes of ensuring that borrowers receive the benefits of the Servicemembers Civil Relief Act; they could engage in similar efforts with respect to the PSLF Waiver. Servicers can also identify consumers who previously submitted Teacher Loan Forgiveness applications and then target those groups with PSLF Waiver communications.

The CFPB notes that time is of the essence since the PSLF Waiver closes at the end of October 2022. After the PSLF Waiver closes, direct payments to borrowers may be the primary means of remediating relevant UDAAPs.

V. Conclusion

The CFPB will continue to review closely the practices of student loan servicers for potential UDAAPs, including the practices related to PSLF described above. The CFPB will use all appropriate tools to hold entities accountable if they engage in UDAAPs in connection with these practices.

VI. Regulatory Requirements

The Bulletin constitutes a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It is intended to provide information regarding the CFPB's general plans to exercise its supervisory and enforcement discretion for institutions under its jurisdiction and does not impose any legal requirements on external parties, nor does it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. Because no notice of proposed rulemaking is required in issuing the Bulletin, the Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis. The CFPB has also determined

[15] The U.S. Department of Education has issued guidance to FFELP and Perkins loan participants directing them to provide interested borrowers with accurate information about the PSLF Waiver. U.S. Dept. of Ed., Office of Fed. Student Aid, GEN–21–09, *Guidance for FFEL and Perkins Loan Program Participants on the Limited Public Service Loan Forgiveness Waiver* (Dec. 7, 2021), *available at https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-12-07/guidance-ffel-and-perkins-loan-program-participants-limited-public-service-loan-forgiveness-waiver.*

that the issuance of the Bulletin does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–04266 Filed 2–28–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0259; Project Identifier AD–2020–01128–E; Amendment 39–21900; AD 2022–02–03]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. The AD applies to CFM International, S.A. CFM56–3 and CFM56–7B model turbofan engines with certain accessory gearbox assembly (AGB) not equipped with a dynamic oil seal assembly in the handcranking pad. As published, the part numbers (P/Ns) listed in paragraph (i)(2)(i) are incorrect. This document corrects that error. In all other respects, the original document remains the same; however, for clarity, the FAA is publishing the entire rule in the **Federal Register**.

DATES: This correction is effective March 22, 2022. The effective date of AD 2022–02–03 remains March 22, 2022.

ADDRESSES: For service information identified in this final rule, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *fleetsupport@ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0259.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0259, or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov*.

SUPPLEMENTARY INFORMATION: AD 2022–02–03, 39–21961 (87 FR 8402, February 15, 2022) (AD 2022–02–03), requires independent inspection to verify re-installation of the AGB handcranking pad cover after maintenance. AD 2022–02–03 also requires the replacement of the affected AGB with a part eligible for installation as a terminating action to the inspection requirement.

Need for the Correction

As published, the P/Ns listed in paragraph (i)(2)(i) of the AD, which defines a part eligible for installation, are incorrect. The P/Ns were incorrectly listed as 340–046–503–0, 340–046–504–0, and 340–046–505–0. The correct P/Ns are 335–300–103–0, 335–300–105–0, 335–300–106–0, 335–300–107–0, 335–300–108–0, 335–300–109–0, and 335–300–110–0.

Although no other part of the preamble or regulatory information has been corrected, for clarity, the FAA is publishing the entire rule in the **Federal Register**.

The effective date of this AD remains March 22, 2022.

Good Cause for Adoption Without Prior Notice

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

The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because this action corrects P/Ns that were correctly identified in a notice of proposed rulemaking, which published in the **Federal Register** on May 3, 2021 (86 FR 23301). Accordingly, notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) by correcting 87 FR 8402, (February 15, 2022), beginning at page 8405, column 2 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 [Corrected]

■ 2. The FAA amends § 39.13 by:

■ a. Removing airworthiness directive 2013–26–01, Amendment 39–17710 (78 FR 79295, December 30, 2013); and

■ b. Adding the following new airworthiness directive:

2022–02–03 CFM International, S.A.: Amendment 39–21900; Docket No. FAA–2021–0259; Project Identifier AD–2020–01128–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 22, 2022.

(b) Affected ADs

This AD replaces AD 2013–26–01, Amendment 39–17710 (78 FR 79295, December 30, 2013).

(c) Applicability

This AD applies to CFM International, S.A. CFM56–3 and CFM56–7B model turbofan engines equipped with an accessory gearbox (AGB) assembly with the following part numbers (P/Ns):

(1) For CFM56–3, CFM56–3B, and CFM56–3C model turbofan engines, AGB P/N: 335–

300–103–0, 335–300–105–0, 335–300–106–0, 335–300–107–0, 335–300–108–0, 335–300–109–0, or 335–300–110–0, installed.

(2) For CFM56–7B20, CFM56–7B20/2, CFM56–7B20/3, CFM56–7B22, CFM56–7B22/2, CFM56–7B22/3, CFM56–7B22/3B1, CFM56–7B22/B1, CFM56–7B24, CFM56–7B24/2, CFM56–7B24/3, CFM56–7B24/3B1, CFM56–7B24/B1, CFM56–7B26, CFM56–7B26/2, CFM56–7B26/3, CFM56–7B26/3B1, CFM56–7B26/3B2, CFM56–7B26/3B2F, CFM56–7B26/3F, CFM56–7B26/B1, CFM56–7B26/B2, CFM56–7B27, CFM56–7B27/2, CFM56–7B27/3, CFM56–7B27/3B1, CFM56–7B27/3B1F, CFM56–7B27/3B3, CFM56–7B27/3F, CFM56–7B27/B1, and CFM56–7B27/B3 model turbofan engines, AGB P/N: 340–046–503–0, 340–046–504–0, or 340–046–505–0, installed.

(3) For CFM56–7B27A, CFM56–7B27A/3, or CFM56–7B27AE model turbofan engines, AGB P/N: 340–188–601–0, 340–188–603–0, or 340–188–605–0, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7260, Turbine Engine Accessory Drive.

(e) Unsafe Condition

This AD was prompted by a dual engine loss of oil event and 42 prior events of total loss of engine oil during flight. The FAA is issuing this AD to prevent loss of engine oil while in flight. The unsafe condition, if not addressed, could result in engine failure, loss of thrust control, reduced control of the aircraft, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) After the effective date of this AD, after any maintenance that involves removal and re-installation of the AGB handcranking pad cover, perform an independent inspection to verify re-installation of the AGB handcranking pad cover; or

(2) Prior to the next removal of the AGB handcranking pad cover from the engine, insert the independent inspection required by paragraph (g)(1) of this AD as a required inspection item in the existing approved continuous airworthiness maintenance program for the aircraft.

(h) Mandatory Terminating Action

As a mandatory terminating action to the requirements of paragraph (g) of this AD:

(1) For affected CFM56–3, CFM56–3B, and CFM56–3C model turbofan engines, at the next engine shop visit, or before December 31, 2026, whichever occurs first after the effective date of this AD, replace the affected AGB with a part eligible for installation.

(2) For affected CFM56–7B model turbofan engines, except for CFM56–7B27A, CFM56–7B27A/3, and CFM56–7B27AE model turbofan engines, at the next engine shop visit, or before December 31, 2024, whichever occurs first after the effective date of this AD, replace the affected AGB with a part eligible for installation.

(i) Definition

(1) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine case flanges, except for the following situations, which do not constitute an engine shop visit:

(i) Separation of engine flanges solely for the purposes of transportation of the engine without subsequent maintenance; or

(ii) Separation of engine flanges solely for the purpose of replacing the fan or propulsor without subsequent maintenance.

(2) For the purpose of this AD, for affected CFM56–3, CFM56–3B, and CFM56–3C model turbofan engines, a part eligible for installation is:

(i) An AGB with a P/N other than 335–300–103–0, 335–300–105–0, 335–300–106–0, 335–300–107–0, 335–300–108–0, 335–300–109–0, 335–300–110–0; or

(ii) An AGB that, using an FAA-approved procedure, has been re-worked with a dynamic oil seal in the handcranking pad cover assembly and re-identified with a new P/N not listed in paragraph (i)(2)(i) of this AD.

Note 1 to paragraph (i)(2)(ii): Procedures to install a dynamic oil seal in the handcranking pad cover assembly can be found in CFM International SB CFM56–3 S/B 72–1129, Revision 7, dated May 6, 2020.

(3) For the purpose of this AD, for affected CFM56–7B model turbofan engines, except for CFM56–7B27A, CFM56–7B27A/3, and CFM56–7B27AE model turbofan engines, a part eligible for installation is:

(i) An AGB with a P/N other than 340–046–503–0, 340–046–504–0, or 340–046–505–0; or

(ii) An affected AGB that, using an FAA-approved procedure, has been re-worked with a dynamic oil seal in the handcranking pad cover assembly and re-identified with a new P/N not listed in paragraph (i)(3)(i) of this AD.

Note 2 to paragraph (i)(3)(ii): Procedures to install a dynamic oil seal in the handcranking pad cover assembly can be found in CFM International SB CFM56–7B S/B 72–0879, Revision 7, dated February 10, 2021, CFM56–7B S/B 72–0564, Revision 9, dated December 3, 2021, or CFM56–7B S/B 72–1071, initial issue, dated December 3, 2021.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Kevin Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov.*

(l) Material Incorporated by Reference

None.

Issued on February 23, 2022.

Derek Morgan,

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

[FR Doc. 2022–04149 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31417; Amdt. No. 564]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: 0901 UTC, effective March 24, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for

Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on February 18, 2022.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, March 24, 2022.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, and 14 CFR 11.49(b)(2).

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 564 Effective Date, March 24, 2022]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3302 RNAV Route T302			
Is Amended by Adding			
LLUKY, NE WP	ROKKK, IA WP	4400	17500
ROKKK, IA WP	WATERLOO, IA VOR/DME	3000	17500
WATERLOO, IA VOR/DME	DUBUQUE, IA VORTAC	2900	17500
DUBUQUE, IA VORTAC	JOOLZ, IL WP	*2900	17500
*2500–MOCA			
JOOLZ, IL WP	GRIFT, IL WP	3000	17500
§ 95.3411 RNAV Route T411			
Is Added to Read			
RAZORBACK, AR VORTAC	DROOP, MO WP	3200	17500
DROOP, MO WP	BUTLER, MO VORTAC	2800	17500
BUTLER, MO VORTAC	TOPEKA, KS VORTAC	3100	17500
TOPEKA, KS VORTAC	LINCOLN, NE VORTAC	3200	17500
§ 95.3413 RNAV Route T413			
Is Added to Read			
RAZORBACK, AR VORTAC	DROOP, MO WP	3200	17500
DROOP, MO WP	EMPORIA, KS VORTAC	3100	17500
EMPORIA, KS VORTAC	SALINA, KS VORTAC	3300	17500
SALINA, KS VORTAC	GRAND ISLAND, NE VOR/DME	3900	17500
GRAND ISLAND, NE VOR/DME	ISTIQ, NE WP	3800	17500
ISTIQ, NE WP	LLUKY, NE WP	4000	17500
LLUKY, NE WP	MMINI, NE WP	4000	17500
MMINI, NE WP	JMBAG, SD WP	4300	17500
JMBAG, SD WP	PIERRE, SD VORTAC	4200	17500

From	To	MEA
§ 95.6001 Victor Routes-U.S.		
§ 95.6013 VOR Federal Airway V13 Is Amended To Delete		
RAZORBACK, AR VORTAC	*PINNE, MO WP	3000

From	To	MEA
*4500–MRA		
PINNE, MO WP	NEOSHO, MO VOR/DME	3000
NEOSHO, MO VOR/DME	NASHE, MO FIX	2900
NASHE, MO FIX	DIZZI, MO WP	2700
DIZZI, MO WP	BUTLER, MO VORTAC	*2600
*2000–MOCA		
§ 95.6014 VOR Federal Airway V14 Is Amended To Delete		
TULSA, OK VORTAC	ADAIR, OK FIX	2500
ADAIR, OK FIX	NEOSHO, MO VOR/DME	3000
NEOSHO, MO VOR/DME	SPRINGFIELD, MO VORTAC	3000
§ 95.6015 VOR Federal Airway V15 Is Amended To Delete		
OKMULGEE, OK VOR/DME	MALTS, OK FIX	3500
MALTS, OK FIX	*PRYOR, OK FIX	**2900
*2900–MRA		
**2200–MOCA		
PRYOR, OK FIX	NEOSHO, MO VOR/DME	3000
§ 95.6027 VOR Federal Airway V27 Is Amended To Read in Part		
GAVIOTA, CA VORTAC	*ORCUT, CA FIX	6000
*6000–MCA	ORCUT, CA FIX, SE BND.	
§ 95.6037 VOR Federal Airway V37 Is Amended To Delete		
ELLWOOD CITY, PA VOR/DME	ERIE, PA TACAN	3000
§ 95.6043 VOR Federal Airway V43 Is Amended To Delete		
YOUNGSTOWN, OH VORTAC	ERIE, PA TACAN	*5000
*3000–GNSS MEA		
§ 95.6270 VOR Federal Airway V270 Is Amended To Delete		
ERIE, PA VORTAC	JAMESTOWN, NY VOR/DME	4000
§ 95.6307 VOR Federal Airway V307 Is Amended To Delete		
HARRISON, AR VOR/DME	NEOSHO, MO VOR/DME	*3400
*2800–MOCA		
NEOSHO, MO VOR/DME	OSWEGO, KS VOR/DME	3000
§ 95.6506 VOR Federal Airway V506 Is Amended To Delete		
TULSA, OK VORTAC	VINTA, OK FIX	2700
VINTA, OK FIX	NEOSHO, MO VOR/DME	3000
NEOSHO, MO VOR/DME	BILIE, MO FIX	3000
BILIE, MO FIX	SPRINGFIELD, MO VORTAC	3000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7181 Jet Route J181**			
Is Amended To Delete			
OKMULGEE, OK VOR/DME	NEOSHO, MO VOR/DME	18000	45000
NEOSHO, MO VOR/DME	HALLSVILLE, MO VORTAC	18000	45000

Airway Segment		Changeover Points	
From	To	Distance	From
§ 95.8005 Jet Route Changeover Points **J181 Is Amended To Delete Changeover Point**			
OKMULGEE, OK VOR/DME	NEOSHO, MO VOR/DME	58	OKMULGEE.
NEOSHO, MO VOR/DME	HALLSVILLE, MO VORTAC	130	NEOSHO.

[FR Doc. 2022–04022 Filed 2–28–22; 8:45 a.m.]
BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. FDA–2022–N–0114]

Medical Devices; Orthopedic Devices; Classification of the Screw Sleeve Bone Fixation Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the screw sleeve bone fixation device 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 screw sleeve bone fixation device'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 March 1, 2022. The classification was applicable on May 1, 2020.

FOR FURTHER INFORMATION CONTACT: Jesse Muir, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4508, Silver Spring, MD 20993–0002, 240–402–6679, *Jesse.Muir@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the screw sleeve bone fixation device 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 (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 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. 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 13, 2018, FDA received Woven Orthopedic Technologies, LLC's request for De Novo classification of the OGmend® Implant System. 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 21 U.S.C. 360c(a)(1)(B)). 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 May 1, 2020, 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 888.3043.[1] We have named the generic type of device ''screw sleeve bone fixation device,'' and it is intended to be implanted in conjunction with a non-resorbable, metallic bone screw where the screw has lost purchase due to loosening, backout, or breakage. The device fits between the screw threads and surrounding bone and provides increased surface area to create an

[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.

interference fit to restore stability of the implant construct.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—SCREW SLEEVE BONE FIXATION DEVICE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Loss of function/mechanical integrity resulting from: ▪ Device malposition. ▪ Device breakage. ▪ Damage to screw during insertion. ▪ Deterioration due to aging. ▪ Insufficient restoration of screw fixation.	In vivo performance testing; Non-clinical performance testing; Shelf life testing; and Labeling.
Revision	In vivo performance testing; Non-clinical performance testing; and Labeling.
Adverse tissue reaction	Biocompatibility evaluation; In vivo performance testing; Non-clinical performance testing; and Labeling.
Infection	Sterilization validation; and Shelf life testing.
Febrile response due to endotoxins	Pyrogenicity testing.

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. We encourage sponsors to consult with us if they wish to use a non-animal testing method that they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

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

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification 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 888

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 888 is amended as follows:

PART 888—ORTHOPEDIC DEVICES

■ 1. The authority citation for part 888 continues to read as follows:

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

■ 2. Add § 888.3043 to subpart D to read as follows:

§ 888.3043 Screw sleeve bone fixation device.

(a) *Identification.* A screw sleeve bone fixation device is intended to be implanted in conjunction with a non-resorbable, metallic bone screw where the screw has lost purchase due to loosening, backout, or breakage. The device fits between the screw threads and surrounding bone and provides increased surface area to create an interference fit to restore stability of the implant construct.

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

(1) In vivo performance testing under anticipated conditions of use must demonstrate:

(i) The device provides sufficient stability to allow for fracture healing; and

(ii) A lack of adverse biologic response to the implant through histopathological and histomorphometric assessment.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. Testing must:

(i) Assess the stability of the device in a rescue screw scenario;

(ii) Demonstrate that the device can be inserted and removed without damage to the implant or associated hardware;

(iii) Demonstrate the device can withstand dynamic loading without device failure; and

(iv) Characterize wear particle generation.

(3) The device must be demonstrated to be biocompatible.

(4) The device must be demonstrated to be non-pyrogenic.

(5) Performance data must demonstrate the sterility of the device.

(6) Performance data must support the labeled shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the established shelf life.

(7) Labeling must include:

(i) A detailed summary of the device technical parameters;

(ii) Information describing all materials of the device;

(iii) Instructions for use, including device removal; and

(iv) A shelf life.

Dated: February 22, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–04154 Filed 2–28–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1141

[Docket No. FDA–2019–N–3065]

RIN 0910–AI39

Tobacco Products; Required Warnings for Cigarette Packages and Advertisements; Delayed Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: As required by an order issued by the U.S. District Court for the Eastern District of Texas, this action delays the effective date of the final rule (''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements''), which published on March 18, 2020. The new effective date is April 9, 2023.

DATES: The effective date of the rule amending 21 CFR part 1141 published at 85 FR 15638, March 18, 2020, and delayed at 85 FR 32293, May 29, 2020; 86 FR 3793, January 15, 2021; 86 FR 36509, July 12, 2021; 86 FR 50855, September 13, 2021; and 86 FR 70052, December 9, 2021, is further delayed until April 9, 2023.

FOR FURTHER INFORMATION CONTACT: Courtney Smith, Office of Regulations, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1371, email: *CTPRegulations@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 18, 2020, the Food and Drug Administration (FDA or Agency) issued a final rule establishing new cigarette health warnings for cigarette packages and advertisements. The final rule implements a provision of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) that requires FDA to issue regulations requiring color graphics depicting the negative health consequences of smoking to accompany new textual warning label statements. The Tobacco Control Act amends the Federal Cigarette Labeling and Advertising Act of 1965 (Pub. L. 89–92) to require each cigarette package and advertisement to bear one of the new required warnings. The final rule specifies the 11 new textual warning label statements and accompanying color graphics. Pursuant to section 201(b) of the Tobacco Control Act, the rule was published with an effective date of June 18, 2021, 15 months after the date of publication of the final rule.

On April 3, 2020, the final rule was challenged in the U.S. District Court for the Eastern District of Texas.[1] On May 8, 2020, the court granted a joint motion to govern proceedings in that case and postpone the effective date of the final rule by 120 days.[2] On December 2, 2020, the court granted a new motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[3] On March 2, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[4] On May 21, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[5] On August 18, 2021, the court issued an order to postpone the effective date of the final rule by an additional 90 days.[6] On November 12, 2021, the court issued another order to postpone the effective date of the final rule by an additional 90 days.[7] On February 10, 2022, the court issued another order to postpone the effective date of the final rule by an additional 90 days.[8] The court ordered that the new effective date of the final rule is April 9, 2023. Pursuant to the court order, any obligation to comply with a deadline tied to the effective date is similarly postponed, and those obligations and deadlines are now tied to the postponed effective date.

To the extent that 5 U.S.C. 553 applies to this action, the Agency's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exception in 5 U.S.C. 553(b)(B). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The 90-day postponement of the effective date, until April 9, 2023, is required by court order in accordance with the court's authority to postpone a rule's effective date pending judicial review (5 U.S.C. 705). Seeking prior public comment on this postponement would have been impracticable, as well as contrary to the public interest in the orderly issuance and implementation of regulations.

Dated: February 23, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–04181 Filed 2–28–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[TD 9962]

RIN 1545–BQ06

User Fees Relating to the Enrolled Agent Special Enrollment Examination and the Enrolled Retirement Plan Agent Special Enrollment Examination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: These final regulations amend existing regulations relating to the user fees for the special enrollment examinations for enrolled agents and enrolled retirement plan agents. The final regulations increase the amount of the user fee for each part of the special enrollment examination for enrolled agents (EA SEE). The final regulations also remove the user fee for the special enrollment examination for enrolled retirement plan agents (ERPA SEE) because the IRS no longer offers the ERPA SEE or new enrollment as an enrolled retirement plan agent. The final regulations affect individuals taking the EA SEE. The Independent Offices Appropriation Act of 1952 authorizes charging user fees.

DATES: *Effective date:* These regulations are effective March 31, 2022.

Applicability date: For the date of applicability, see § 300.4(d).

[1] *R.J. Reynolds Tobacco Co. et al.* v. *United States Food and Drug Administration et al.,* No. 6:20–cv–00176 (E.D. Tex. filed April 3, 2020).

[2] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. May 8, 2020) (order granting joint motion and establishing schedule), Doc. No. 33.

[3] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. December 2, 2020) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 80.

[4] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. March 2, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 89.

[5] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. May 21, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 91.

[6] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. August 18, 2021) (order postponing effective date), Doc. No. 92.

[7] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. November 12, 2021) (order postponing effective date), Doc. No. 93.

[8] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. February 10, 2022) (order postponing effective date), Doc. No. 94.

FOR FURTHER INFORMATION CONTACT: Karen Wozniak at (202) 317–5129 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 300 regarding user fees. On September 29, 2021, a notice of proposed rulemaking (REG–100718–21) and notice of public hearing was published in the **Federal Register** (86 FR 53893). The notice proposed amending the regulations relating to the user fees for the EA SEE and ERPA SEE. The notice proposed increasing the amount of the user fee for each part of the EA SEE from $81, plus an amount payable to a third-party contractor, to $99, plus an amount payable to a third-party contractor. The notice also proposed removing the user fee for the ERPA SEE. The notice contains a detailed explanation regarding the amendments to these regulations.

Two comments responding to the notice were received. There were no requests to speak at the scheduled public hearing. Consequently, the public hearing was cancelled (86 FR 66496). After consideration of the written comments, the Department of the Treasury (Treasury Department) and the IRS have decided to adopt without modification the regulations proposed by the notice.

Summary of Comments

The two comments submitted in response to the notice of proposed rulemaking are available at *www.regulations.gov* or upon request.

The two commenters expressed concern that the proposed EA SEE user fee would be used to fund the program for enrollment and renewal of enrolled agents in addition to recovering the IRS's cost of overseeing the EA SEE. One commenter stated that the program for enrollment and renewal of enrollment of enrolled agents should be funded by enrollment and renewal fees—not the EA SEE user fee—and recommended increasing the enrollment and renewal fees instead of increasing the EA SEE user fee. The second commenter expressed agreement with this comment.

Under Office of Management and Budget (OMB) Circular A–25, 58 FR 38142 (July 15, 1993) (OMB Circular A–25), Federal agencies that provide services that confer benefits on identifiable recipients are to establish user fees that recover for the government the full cost of providing the service. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. Under OMB Circular A–25, a user fee should be set at an amount that recovers the full cost of providing a service, unless the OMB grants an exception. The full cost of providing a service includes both the direct and indirect costs of providing the service.

As required by OMB Circular A–25, the IRS conducted a biennial review of the EA SEE user fee, during which it calculated the full cost of overseeing the EA SEE, taking into account all direct and indirect costs. In calculating the full cost of overseeing the EA SEE, the IRS followed generally accepted accounting principles established by the Federal Accounting Standards Advisory Board. The proposed EA SEE user fee only recovers the IRS's cost of overseeing the EA SEE. It does not recover costs associated with other programs. The preamble to the proposed regulations describes in detail the costs associated with overseeing the EA SEE and the IRS's calculation of the proposed EA SEE user fee.

The IRS charges a separate user fee to recover the costs it incurs related to enrollment and renewal of enrollment of enrolled agents and renewal of enrollment of enrolled retirement plan agents. That fee is currently set at $67 per initial application and renewal. Like the EA SEE user fee, the user fees for enrollment and renewal of enrollment of enrolled agents and renewal of enrollment of enrolled retirement plan agents are also subject to biennial review under OMB Circular A–25. *See* REG–114209–21 in the Proposed Rules section of this edition of the **Federal Register**, separately proposing to increase the renewal user fee for enrolled retirement plan agents from $67 to $140 and both the enrollment and renewal user fee for enrolled agents from $67 to $140.

Accordingly, after consideration of the comments, the proposed regulations are adopted without change.

Special Analyses

These regulations are not significant and are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities. The final regulations remove the ERPA SEE user fee as the IRS no longer offers the examination or new enrollment as an enrolled retirement plan agent. The EA SEE user fee primarily affects individuals who take the EA SEE. Only individuals, not businesses, can be enrolled agents. Accordingly, the economic impact of these regulations on any small entity would be a result of an individual enrolled agent owning a small entity or a small entity employing an enrolled agent and reimbursing the individual for the fee. The Treasury Department and the IRS estimate that an average of 22,381 EA SEE examination parts will be taken by individuals annually. Consequently, a substantial number of small entities is not likely to be affected. Further, the economic impact on any small entities affected would be limited to paying the $18 difference in cost between the $99 user fee and the previous $81 user fee per part (for each enrolled agent that a small entity employs and pays for), which is unlikely to present a significant economic impact. The total economic impact of these regulations is approximately $402,858 annually, which is the product of the approximately 22,381 examination parts and the $18 increase in the fee per part. The rule is, therefore, not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business. No comments on the notice were received from the Chief Counsel for the Office of Advocacy of the Small Business Administration.

Drafting Information

The principal author of these regulations is Karen Wozniak, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

§ 300.0 [Amended]

■ **Par. 2.** Section 300.0 is amended by removing paragraph (b)(9) and redesignating paragraphs (b)(10) through (13) as paragraphs (b)(9) through (12).

■ **Par. 3.** Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.4 Enrolled agent special enrollment examination fee.

* * * * *

(b) *Fee.* The fee for taking the enrolled agent special enrollment examination is $99 per part, which is the cost to the government for overseeing the development and administration of the examination and is in addition to the fees charged by the administrator of the examination.

* * * * *

(d) *Applicability date.* This section applies to registrations for the enrolled agent special enrollment examination that occur on or after March 31, 2022.

§ 300.9 [Removed]

■ **Par. 4.** Section 300.9 is removed.

§§ 300.10 through 300.13 [Redesignated as §§ 300.09 through 300.12]

■ **Par. 5.** Redesignate §§ 300.10 through 300.13 as §§ 300.09 through 300.12.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: February 24, 2022.

Thomas C. West, Jr.,

Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2022–04302 Filed 2–25–22; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Russian Harmful Foreign Activities Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement an April 15, 2021 Russia-related Executive order. OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions.

DATES: This rule is effective March 1, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On April 15, 2021, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued Executive Order (E.O.) 14024, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'' (86 FR 20249, April 19, 2021).

In E.O. 14024, the President found that specified harmful foreign activities of the Government of the Russian Federation—in particular, efforts to undermine the conduct of free and fair democratic elections and democratic institutions in the United States and its allies and partners; to engage in and facilitate malicious cyber-enabled activities against the United States and its allies and partners; to foster and use transnational corruption to influence foreign governments; to pursue extraterritorial activities targeting dissidents or journalists; to undermine security in countries and regions important to United States national security; and to violate well-established principles of international law, including respect for the territorial integrity of states—constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and declared a national emergency to deal with that threat.

OFAC is issuing the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (the ''Regulations''), to implement E.O. 14024, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 14024. A copy of E.O. 14024 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 587 with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 587

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign trade, Penalties, Reporting and recordkeeping requirements, Russia, Sanctions, Services.

■ For the reasons set forth in the preamble, OFAC adds part 587 to 31 CFR chapter V to read as follows:

PART 587—RUSSIAN HARMFUL FOREIGN ACTIVITIES SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

587.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

587.201 Prohibited transactions.
587.202 Effect of transfers violating the provisions of this part.

587.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
587.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.
587.205 Exempt transactions.

Subpart C—General Definitions

587.300 Applicability of definitions.
587.301 Blocked account; blocked property.
587.302 Effective date.
587.303 Entity.
587.304 Financial, material, or technological support.
587.305 Government of the Russian Federation.
587.306 [Reserved]
587.307 Interest.
587.308 Licenses; general and specific.
587.309 OFAC.
587.310 Person.
587.311 Property; property interest.
587.312 Transfer.
587.313 United States.
587.314 United States person; U.S. person.
587.315 U.S. financial institution.

Subpart D—Interpretations

587.401 [Reserved]
587.402 Effect of amendment.
587.403 Termination and acquisition of an interest in blocked property.
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Appendix A to Part 587—Executive Order 14024 of April 15, 2021

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 14024, 86 FR 20249, April 19, 2021.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 587.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note 1 to § 587.101. This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions.

Subpart B—Prohibitions

§ 587.201 Prohibited transactions.

(a) All transactions prohibited pursuant to Executive Order (E.O.) 14024 of April 15, 2021 are prohibited pursuant to this part.

(b) All transactions prohibited pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 14024 are prohibited pursuant to this part.

Note 1 to § 587.201. The names of persons designated or identified as blocked pursuant to E.O. 14024, or listed in, or designated or identified as blocked pursuant to, any further Executive orders issued pursuant to the national emergency declared therein, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifier formulation: ''[RUSSIA–EO[E.O. number pursuant to which the person's property and interests in property are blocked]].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 587.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 587.201. The International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List using the following identifier formulation: ''[BPI–RUSSIA–EO[E.O. number pursuant to which the person's property and interests in property are blocked pending investigation]].''

Note 3 to § 587.201. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 587.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 587.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 587.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 587.201.

§ 587.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 587.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For the purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For the purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For the purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 587.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 587.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 587.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 587.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 587.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 587.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 587.205 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Official business.* The prohibitions contained in § 587.201(a) do not apply to transactions for the conduct of the official business of the United States Government or the United Nations (including its Specialized Agencies, Programmes, Funds, and Related Organizations) by employees, grantees, or contractors thereof.

Subpart C—General Definitions

§ 587.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 587.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 587.201 held in the name of a person whose property and interests in property are blocked pursuant to § 587.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 587.301. *See* § 587.406 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent

or more by one or more persons whose property and interests in property are blocked pursuant to § 587.201.

§ 587.302 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and, with respect to a person whose property and interests in property are blocked pursuant to § 587.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

(b) For the purposes of this section, c*onstructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

§ 587.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 587.304 Financial, material, or technological support.

The term *financial, material, or technological support* means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this section means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 587.305 Government of the Russian Federation.

The term *Government of the Russian Federation* means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, including the Central Bank of the Russian Federation, and any person owned, controlled, or directed by, or acting for or on behalf of, the Government of the Russian Federation.

§ 587.306 [Reserved]

§ 587.307 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 587.308 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

Note 1 to § 587.308. *See* § 501.801 of this chapter on licensing procedures.

§ 587.309 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 587.310 Person.

The term *person* means an individual or entity.

§ 587.311 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 587.312 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 587.313 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 587.314 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, lawful permanent resident, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 587.315 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses,

operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 587.401 [Reserved]

§ 587.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 587.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 587.201, such property shall no longer be deemed to be property blocked pursuant to § 587.201, unless there exists in the property another interest that is blocked pursuant to § 587.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 587.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 587.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 587.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 587.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 587.201 if effected after the effective date.

§ 587.406 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 587.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 587.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 587.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Russian Harmful Foreign Activities sanctions page on OFAC's website: *www.treasury.gov/ofac.*

§ 587.502 [Reserved]

§ 587.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 587.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 587.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 587.504. *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 587.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 587.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 587.506 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 587.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred

expenses must be authorized pursuant to § 587.507, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 587.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this section. Additionally, U.S. persons who provide services authorized by this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 587.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 587.201 is prohibited unless licensed pursuant to this part.

Note 1 to § 587.506. Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available.

§ 587.507 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 587.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 587.201 is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 587.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in paragraph (a) of this section authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 587.201, any other part of this chapter, or any Executive order or statute has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) Email (preferred method): *OFACReport@treasury.gov;* or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 587.508 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are prohibited by this part are authorized.

§ 587.509 Official business of the United States Government.

All transactions prohibited by this part that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

§ 587.510 Official business of certain international organizations and entities.

All transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:

(a) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;

(b) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);

(c) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and

(d) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

Subpart F—Reports

§ 587.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 587.701 Penalties and Findings of Violation.

(a) The penalties available under section 206 of the International

Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), as adjusted annually pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note) or, in the case of criminal violations, as adjusted pursuant to 18 U.S.C. 3571, are applicable to violations of the provisions of this part.

(b) OFAC has the authority, pursuant to IEEPA, to issue Pre-Penalty Notices, Penalty Notices, and Findings of Violation; impose monetary penalties; engage in settlement discussions and enter into settlements; refer matters to the United States Department of Justice for administrative collection; and, in appropriate circumstances, refer matters to appropriate law enforcement agencies for criminal investigation and/or prosecution. For more information, see appendix A to part 501 of this chapter, which provides a general framework for the enforcement of all economic sanctions programs administered by OFAC, including enforcement-related definitions, types of responses to apparent violations, general factors affecting administrative actions, civil penalties for failure to comply with a requirement to furnish information or keep records, and other general civil penalties information.

Subpart H—Procedures

§ 587.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 587.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 14024 of April 15, 2021, and any further Executive orders issued pursuant to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 587.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 587—Executive Order 14024 of April 15, 2021

Executive Order 14024 of April 15, 2021

Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation.

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, JOSEPH R. BIDEN JR., President of the United States of America, find that specified harmful foreign activities of the Government of the Russian Federation—in particular, efforts to undermine the conduct of free and fair democratic elections and democratic institutions in the United States and its allies and partners; to engage in and facilitate malicious cyber-enabled activities against the United States and its allies and partners; to foster and use transnational corruption to influence foreign governments; to pursue extraterritorial activities targeting dissidents or journalists; to undermine security in countries and regions important to United States national security; and to violate well-established principles of international law, including respect for the territorial integrity of states—constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

Section 1. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General:

(i) To operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;

(ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation:

(A) Malicious cyber-enabled activities;

(B) interference in a United States or other foreign government election;

(C) actions or policies that undermine democratic processes or institutions in the United States or abroad;

(D) transnational corruption;

(E) assassination, murder, or other unlawful killing of, or infliction of other bodily harm against, a United States person or a citizen or national of a United States ally or partner;

(F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners; or

(G) deceptive or structured transactions or dealings to circumvent any United States sanctions, including through the use of digital currencies or assets or the use of physical assets;

(iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of:

(A) The Government of the Russian Federation;

(B) an entity that has, or whose members have, engaged in any activity described in subsection (a)(ii) of this section; or

(C) an entity whose property and interests in property are blocked pursuant to this order;

(iv) to be a political subdivision, agency, or instrumentality of the Government of the Russian Federation;

(v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section;

(vi) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(A) Any activity described in subsection (a)(ii) of this section; or

(B) any person whose property and interests in property are blocked pursuant to this order; or

(vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to this order.

(b) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, a government whose property and interests in property are blocked pursuant to chapter V of title 31 of the Code of Federal Regulations or another Executive Order, and to be:

(i) A citizen or national of the Russian Federation;

(ii) an entity organized under the laws of the Russian Federation or any jurisdiction within the Russian Federation (including foreign branches); or

(iii) a person ordinarily resident in the Russian Federation.

(c) any person determined by the Secretary of State, in consultation with the Secretary of the Treasury, to be responsible for or complicit in, or to have directly or indirectly engaged in or attempted to engage in, cutting or disrupting gas or energy supplies to Europe, the Caucasus, or Asia, and to be:

(i) An individual who is a citizen or national of the Russian Federation; or

(ii) an entity organized under the laws of the Russian Federation or any jurisdiction within the Russian Federation (including foreign branches).

(d) The prohibitions in subsections (a), (b), and (c) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

Sec. 2. The prohibitions in section 1 of this order include:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 3. (a) The unrestricted immigrant and nonimmigrant entry into the United States of noncitizens determined to meet one or more of the criteria in section 1 of this order would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended, except when the Secretary of State or the Secretary of Homeland Security, as appropriate, determines that the person's entry would not be contrary to the interests of the United States, including when the Secretary of State or the Secretary of Homeland Security, as appropriate, so determines, based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives.

(b) The Secretary of State shall implement this authority as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish.

(c) The Secretary of Homeland Security shall implement this order as it applies to the entry of noncitizens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(d) Such persons shall be treated by this section in the same manner as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

Sec. 4. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 5. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 6. For the purposes of this order:

(a) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(b) the term ''Government of the Russian Federation'' means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, including the Central Bank of the Russian Federation, and any person owned, controlled, or directed by, or acting for or on behalf of, the Government of the Russian Federation;

(c) the term ''noncitizen'' means any person who is not a citizen or noncitizen national of the United States;

(d) the term ''person'' means an individual or entity; and

(e) the term ''United States person'' means any United States citizen, lawful permanent resident, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All departments and agencies of the United States shall take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 9. Nothing in this order shall prohibit transactions for the conduct of the official business of the Federal Government or the United Nations (including its specialized agencies, programs, funds, and related organizations) by employees, grantees, and contractors thereof.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 11. (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.

JOSEPH R. BIDEN JR.
THE WHITE HOUSE,
April 15, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–04281 Filed 2–28–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0100]

Special Local Regulations; Rose Fest Dragon Boat Races, Willamette River, Portland, OR

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation for the Rose Fest Dragon Boat Races from June 11 through June 12, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event in Portland, OR. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations for the Rose Fest Dragon Boat Races in item 1 of Table 1 to 33 CFR 100.1302 will be enforced from 6:30 a.m. until 6:30 p.m., each day from June 11, 2022, through June 12, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or

email LCDR Sean Morrison, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a special local regulation in 33 CFR 100.1302 for the Rose Fest Dragon Boat Races regulated area from 6:30 a.m. to 6:30 p.m. on June 11 and June 12, 2022. This action is being taken to provide for the safety of life on navigable waterways during this 2-day event. Our regulation for marine events within the Thirteenth Coast Guard District, § 100.1302, specifies the location of the regulated area for the Rose Fest Dragon Boat Races which encompasses portions of the Willamette River. Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated area during the effective dates and times. During the enforcement periods, as reflected in Table 1 of § 100.1302, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

To seek permission to enter, contact the Captain of the Port (COTP) or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: February 15, 2022.

M. Scott Jackson,

Captain, U.S. Coast Guard, Captain of the Port Columbia River.

[FR Doc. 2022–04296 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0114]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for a fireworks display at The Wharf DC on April 2, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District identifies the safety zone for this event in Washington, DC. During the enforcement period, the operator of any vessel in the safety zone must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified in line no. 1 of table 2 to 33 CFR 165.506(h)(2) from 7:30 p.m. until 9 p.m. on April 2, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST3 Melissa Kelly, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: Telephone 410–576–2596, email *Melissa.C.Kelly@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation for a fireworks display at The Wharf DC from 7:30 p.m. to 9 p.m. on April 2, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the safety zone for the fireworks show which encompasses portions of the Washington Channel in the Upper Potomac River. During the enforcement period, as reflected in § 165.506(d), if you are the operator of a vessel in the safety zone you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: February 22, 2022.

David E. O'Connell,

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

[FR Doc. 2022–04088 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0127]

RIN 1625–AA87

Security Zones; Anacostia River, Washington, DC, and Susquehanna River, Between Cecil and Harford Counties, MD

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary security zones for certain navigable waters of the Anacostia River and Susquehanna River. The security zones are needed to safeguard persons, including those under the protection of the United States Capitol Police (USCP), and property from terrorist acts and incidents and to prevent terrorist acts or incidents while travelling across navigable waters between Washington, DC, and Philadelphia, PA. These security zones will be enforced only for the protection of those persons when in the area and will restrict vessel traffic while the zones are being enforced. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 11 a.m. on March 9, 2022, until 11 p.m. on March 11, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0127 in the ''SEARCH'' box and click ''SEARCH.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

Persons under the protection of the USCP will be travelling to and from a nationally-publicized event in Philadelphia, PA, on March 9, 2022, and March 11, 2022, respectively. The highways to be travelled are located across navigable waters within the Captain of the Port, Maryland-National Capital Region's Area of Responsibility, as set forth at 33 CFR 3.25–15.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to public interest to delay the effective date of this rule. Immediate action is needed to protect persons under the protection of the USCP, mitigate potential terrorist acts, and enhance public and maritime safety and security. The Coast Guard was unable to publish a NPRM due to the short time period between event planners notifying the Coast Guard of the event and publication of these security zones. Furthermore, delaying the effective date would be contrary to the security zones' intended objectives of protecting persons under the protection of the USCP, mitigating potential terrorist acts and enhancing public and maritime safety and security. It is impracticable to publish an NPRM because we must establish the security zones by March 9, 2022.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action to restrict vessel traffic is needed to protect life, property and the environment, therefore a 30-day notice period is impracticable. Delaying the effective date would be contrary to the security zones' intended objectives of protecting persons under the protection of the USCP, mitigating potential terrorist acts and enhancing public and maritime safety and security.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Maryland-National Capital Region (COTP) has determined that the presence of persons under the protection of the USCP at these locations presents a potential target for terrorist attack, sabotage, or other subversive acts, accidents, or other causes of similar nature. This rule is needed to protect persons under the protection of the USCP, personnel in and around these locations, navigable waterways, and waterfront facilities.

IV. Discussion of the Rule

This rule establishes two security zones for certain navigable waters within the COTP Maryland-National Capital Region Zone, as described in 33 CFR 3.25–15, and will be enforced during the times described below for each zone.

The first security zone will be enforced from 11 a.m. to 11 p.m. on March 9, 2022, and from 11 a.m. to 11 p.m. on March 11, 2022. The security zone will cover all navigable waters of the Anacostia River, encompassed by a line connecting the following points, beginning at the shoreline down river from the Southeast Freeway (I–695) Bridge at 38°52′18″ N, 076°59′42″ W, thence southeast across the river to the shoreline at 38°52′06″ N, 076°59′36″ W, thence north and east along the shoreline to 38°52′24″ N, 076°59′02″ W, thence northwest across the river to the shoreline at 38°52′31″ N, 076°59′08″ W, thence west and south along the shoreline back to the beginning point, located at Washington, DC The duration of the zone is intended to protect persons under the protection of the USCP, personnel in and around these locations, navigable waterways, and waterfront facilities.

The second security zone will be enforced from 11 a.m. to 11 p.m. on March 9, 2022, and from 11 a.m. to 11 p.m. on March 11, 2022. The security zone will cover all navigable waters of the Susquehanna River, encompassed by a line connecting the following points, beginning at the shoreline down river from the Millard E. Tydings Memorial (I–95) Bridge at 39°34′31″ N, 076°06′25″ W, thence northeast across the river to the shoreline at 39°34′55″ N, 076°05′36″ W, thence northwest along the shoreline to 39°35′15″ N, 076°06′04″ W, thence southwest across the river to the shoreline at 39°34′55″ N, 076°06′50″ W, thence southeast along the shoreline back to the beginning point, located between Cecil and Harford Counties, MD. The duration of the zone is intended to protect persons under the protection of the USCP, personnel in and around these locations, navigable waterways, and waterfront facilities.

No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the sizes, locations, and limited durations of the security zones. The first zone impacts a small designated area of the Anacostia River for 24 total enforcement hours. This portion of the waterway supports tug and barge traffic year round and recreational vessel traffic, which at its peak, occurs mainly during the summer season. The second zone impacts a small designated area of the Susquehanna River for 24 total enforcement hours. This portion of the waterway supports recreational vessel traffic, which at its peak, occurs mainly during the summer season. Although these security zones extend across the entire widths of the respective waterways, these security zones will be enforced only for the protection of those persons when in the area and will restrict vessel traffic while the zones are being enforced. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the security zones.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves two temporary security zones lasting only 24 total enforcement hours that will prohibit entry within certain navigable waters of the Anacostia River and Susquehanna River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0127 to read as follows:

§ 165.T05–0127 Security Zones; Anacostia River, Washington, DC, and Susquehanna River, between Cecil and Harford Counties, MD.

(a) *Locations.* The following areas are a security zone. These coordinates are based on WGS 84.

(1) *Security Zone 1.* All navigable waters of the Anacostia River, encompassed by a line connecting the following points, beginning at the shoreline down river from the Southeast Freeway (I–695) Bridge at 38°52′18″ N, 076°59′42″ W, thence southeast across the river to the shoreline at 38°52′06″ N, 076°59′36″ W, thence north and east along the shoreline to 38°52′24″ N, 076°59′02″ W, thence northwest across the river to the shoreline at 38°52′31″ N, 076°59′08″ W, thence west and south along the shoreline back to the beginning point, located at Washington, DC.

(2) *Security Zone 2.* All navigable waters of the Susquehanna River, encompassed by a line connecting the following points, beginning at the shoreline down river from the Millard E. Tydings Memorial (I–95) Bridge at 39°34′31″ N, 076°06′25″ W, thence northeast across the river to the shoreline at 39°34′55″ N, 076°05′36″ W, thence northwest along the shoreline to 39°35′15″ N, 076°06′04″ W, thence southwest across the river to the shoreline at 39°34′55″ N, 076°06′50″ W, thence southeast along the shoreline back to the beginning point, located between Cecil and Harford Counties, MD.

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

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

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital

Region (COTP) in the enforcement of the security zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from 11 a.m. to 11 p.m. on March 9, 2022, and from 11 a.m. to 11 p.m. on March 11, 2022.

Dated: February 24, 2022.

David E. O'Connell,

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

[FR Doc. 2022–04304 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0848]

RIN 1625–AA00

Safety Zone; Shore (Belt) Parkway Bridge Construction, Mill Basin; Brooklyn, NY

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

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the safety zone that was established by the Captain of the Port Sector New York on November 24, 2015, that can be found under Docket Number USCG–2014–1044, titled ''Safety Zone; Shore (Belt) Parkway Bridge Construction, Mill Basin; Brooklyn, NY.'' The safety zone was established to protect persons and vessels from potential hazards associated with bridge demolition and construction operations. The Coast Guard received confirmation that the bridge construction project is complete, and that the safety zone is no longer enforced. This action removes the existing regulations related to the safety zone.

DATES: This rule is effective March 1, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0848 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 S. Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 719–354–4000, email *D01-SMB-SecNY-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On November 24, 2015, the Coast Guard established the safety zone under Docket Number USCG–2014–1044, titled ''Safety Zone; Shore (Belt) Parkway Bridge Construction, Mill Basin; Brooklyn, NY.'' The safety zone was established to protect people and vessels from the potential hazards associated with a bridge demolition and construction project. The initial final rule stated that the Coast Guard will disestablish the safety zone once the bridge project is complete. The Coast Guard received confirmation on September 13, 2019, that the bridge project was completed and enforcement of the safety zone was no longer necessary.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The safety zone has not been enforced since the project was completed on September 13, 2019. Sufficient time has passed since the completion of the bridge project and the last enforcement of this safety zone for the Coast Guard to receive any adverse public implications. In addition, during the initial NPRM process for the establishment of the safety zone no adverse comments were received that pertained to the Coast Guard disestablishing the safety zone once the project was complete. Therefore the Coast Guard has determined that it is unnecessary and contrary to the public interest to publish an NPRM because this action is merely removing a regulatory restriction that is no longer needed.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The safety zone is no longer needed and has not been enforced since 2019. This rule requires an administrative change to the **Federal Register**, in order to relieve a regulatory restriction that is no longer applicable or necessary. Therefore, a delayed effective date is unnecessary and contrary to the pubic interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port New York (COTP) has determined that the potential hazards associated with the Shore (Belt) Parkway Bridge Construction are no longer present. On November 13, 2019, the Coast Guard received confirmation that the bridge project was complete and the safety zone was no longer enforced.

IV. Discussion of the Rule

On December 8, 2015, the Coast Guard published a final rule ''Safety Zone; Shore (Belt) Parkway Bridge Construction, Mill Basin; Brooklyn, NY'' in the **Federal Register** (80 FR 76206). The safety zone was necessary to protect people and vessels from potential hazards with the bridge demolition and construction. The initial final rule that established this safety zone stated that the Coast Guard would publish a direct final rule once the bridge project is complete. The Coast Guard has confirmed that the bridge project is complete and the safety zone is no longer needed.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory

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

This regulatory action determination is based on the actions taken to disestablish a safety zone are not considered a significant regulatory action.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves removing a safety zone that was established for bridge construction operations that have since been completed. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

§ 165.161 [Removed]

■ 2. Remove § 165.161.

Dated: February 15, 2022.

Z. Merchant,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2022–04278 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Part 81

[Docket ID ED–2021–OFO–0121]

RIN 1880–AA91

Standardizing Filing Procedures for Administrative Appeals; Correction

AGENCY: Office of Finance and Operations, Department of Education.

ACTION: Technical amendment.

SUMMARY: On September 23, 2021, the Department of Education published in the **Federal Register** final regulations for Standardizing Filing Procedures for Administrative Appeals. This document corrects an error to the regulatory text in the final regulations.

DATES: The correction to these final regulations is effective March 1, 2022.

FOR FURTHER INFORMATION CONTACT: George Abbott, 400 Maryland Avenue SW, Room 10089, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–8300. Email: *George.Abbott@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: This document corrects an error in FR Doc. 2021–20304 that published in the **Federal Register** on September 23, 2021 (86 FR 52829). Due to a technical error, paragraph (b)(3) was not added to 34 CFR 81.20. This technical amendment adds paragraph (b)(3) to § 81.20.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the Secretary's practice to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary to correct an error and do not establish any new substantive rules. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary under 5 U.S.C. 553(b)(B).

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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 another 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.

List of Subjects in 34 CFR Part 81

Administrative practice and procedure, Grant programs—education.

Denise L. Carter,

Acting Assistant Secretary, Office of Finance and Operations.

For the reasons set out in the preamble to FR Doc. 2021–20304, published in the **Federal Register** on September 23, 2021 (86 FR 52829), the Department of Education makes the following technical amendment to 34 CFR part 81.

PART 81—GENERAL EDUCATION PROVISIONS ACT—ENFORCEMENT

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

Authority: 20 U.S.C. 1221e–3, 1234–1234i, and 3474(a), unless otherwise noted.

■ 2. Amend § 81.20 by:

■ a. Adding paragraph (b)(3); and

■ b. Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 81.20 Interlocutory appeals to the Secretary from rulings of an ALJ.

* * * * *

(b) * * *

(3)(i) The petition must be filed electronically, and served upon the ALJ and other parties, by submission to OES on behalf of the Office of the Secretary unless a party shows the Secretary good cause why the petition cannot be filed electronically.

(ii) If the Secretary permits a party to file a petition in paper format, the filing party must file the petition with the Office of Hearings and Appeals (OHA) on behalf of the Secretary by hand-delivery or regular mail. The filing party must provide a copy of the petition to the ALJ at the time the petition is filed, and a copy of the petition must be served upon the other parties by hand-delivery or regular mail.

* * * * *

[FR Doc. 2022–04201 Filed 2–28–22; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0698; FRL–9215–02–R5]

Air Plan Approval; Wisconsin; Serious Plan Elements for the Wisconsin Portion of Chicago Nonattainment Area for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Wisconsin State Implementation Plan (SIP) to meet the volatile organic compound (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT), clean-fuel vehicle programs (CFVP), and the enhanced monitoring of ozone and ozone precursors (EMP) requirements of the Clean Air Act (CAA). These requirements apply in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area (Chicago area) for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standards). EPA proposed to approve this action on December 7, 2021, and received no comments.

DATES: This final rule is effective on March 31, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0698. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Michael Leslie, Environmental Engineer at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental

Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

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

I. Background Information

On December 7, 2021, EPA proposed to approve a revision to the Wisconsin SIP to meet the VOC and NO_X RACT, CFVP, and the EMP requirements of the CAA in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area for the 2008 ozone NAAQS (86 FR 69207). An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on January 6, 2022. EPA received no comments on the proposal.

II. Final Action

EPA is approving revisions to Wisconsin's SIP pursuant to section 110 and part D of the CAA and EPA's regulations, because Wisconsin's December 1, 2020 nonattainment plan satisfies the serious requirements for the VOC and NO_X RACT, the CFVP, and the EMP, in the Wisconsin portion of the Chicago serious nonattainment area for the 2008 ozone NAAQS.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

This action is subject to the Congressional Review Act, and 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).

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 appropriate circuit by May 2, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: February 23, 2022.

Debra Shore,

Regional Administrator, Region 5.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.2585 is amended by adding paragraph (qq) to read as follows:

§ 52.2585 Control Strategy: Ozone.

* * * * *

(qq) *Serious Plan Elements.* Approval—On December 1, 2020, Wisconsin submitted a revision to its State Implementation Plan to satisfy the meet the volatile organic compound (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT), Clean-fuel vehicle programs (CFVP), and the Enhanced monitoring of ozone and ozone precursors (EMP) requirements of the Clean Air Act (CAA) in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area (Chicago area) for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standards). These elements of the plan meet the requirements of section 110 and part D of the CAA for the Wisconsin portion of the Chicago area, which serious nonattainment for the 2008 ozone NAAQS.

* * * * *

[FR Doc. 2022–04197 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 158

[EPA–HQ–OPP–2020–0124; FRL–5331–04–OCSPP]

RIN 2070–AJ49

Notification of Submission to the Secretary of Agriculture; Pesticide Product Performance Data Requirements for Products Claiming Efficacy Against Certain Invertebrate Pests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) a draft final rulemaking regulatory document concerning ''Pesticide Product Performance Data Requirements for Products Claiming Efficacy Against Certain Invertebrate Pests (RIN 2070–AJ49).'' The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0124, is available at *https://www.regulations.gov.* That docket contains historical information and this **Federal Register** document; it does not contain the draft final rule.

Please note that due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Sara Kemme, Mission Support Division (7101M), Office of Program Support, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1217; email address: *kemme.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

FIFRA section 25(a)(2)(A) requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft final rule at least 60 days before signing it in final form for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rule within 15 days after receiving it, then the EPA Administrator shall include the comments of the Secretary of USDA and the EPA Administrator's response to those comments with the final rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rule, then the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

II. Do any Statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submission to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 158

Environmental protection, Administrative practice and procedure, Agricultural and non-agricultural, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 24, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–04265 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0635 and EPA–HQ–OPP–2021–0636; FRL–9551–01–OCSPP]

Adipic Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of adipic acid (CAS Reg. No. 124–04–9) when used as an inert ingredient (acidification or buffering agent, pH regulator) in pesticide formulations applied to growing crops. Verdesian Life Sciences U.S., LLC, and Fine Agrochemicals Ltd., submitted petitions to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) requesting the establishment of an exemption from the requirement of a tolerance for adipic acid. This regulation eliminates the need to establish a maximum permissible level for residues of adipic acid on food or feed commodities when used in accordance with this exemption.

DATES: This regulation is effective March 1, 2022. Objections and requests for hearings must be received on or before May 2, 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 dockets for this action, identified by docket identification (ID) numbers EPA–HQ–OPP–2021–0635 and EPA–HQ–OPP–2021–0636 are 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. The Public Reading Room is 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 OPP Docket is (703) 305–5805.

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: Marietta Echeverria, 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. How 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–2021–0635 and/or EPA–HQ–OPP–2021–0636 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 May 2, 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–2021–0635 and/or EPA–HQ–OPP–2021–0636, 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 58241) (FRL–8792–04–OCSPP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of pesticide petitions PP IN–11546 by Verdesian Life Sciences U.S., LLC, 1001 Winstead Drive, Suite 480, Cary, NC 27513 and PP IN–11616 by Fine Agrochemicals Ltd., Hill End House, Whittington, Worcester WR5 2RQ, UK. The petitions requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of adipic acid when used as an inert ingredient pre-harvest. That document referenced a summary of the petitions prepared by Verdesian Life Sciences U.S. and Fine Agrochemicals Ltd, the petitioners, which are available in their respective dockets, *https://www.regulations.gov.* There were no comments received in response to the notice of filings for either petition.

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 clearly demonstrated 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. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure to adipic acid, including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with adipic acid follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemakings of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemakings, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a rule for the exemption from the requirement of a tolerance for residues of adipic acid

in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to adipic acid. EPA is incorporating previously published sections from that rulemaking as described further in this rulemaking, as they remain unchanged.

Toxicological Profile. For a discussion of the Toxicological Profile of adipic acid, see Unit IV.A. of the December 3, 2020, rulemaking (85 FR 78002) (FRL–10015–57).

Toxicological Points of Departure/Levels of Concern. No toxicological endpoint of concern for adipic acid has been identified in the database below the limit dose of 1000 mg/kg/day.

Exposure Assessment. The Agency's approach to and assumptions for the exposure assessments for adipic acid are discussed in Unit IV.C. of the December 3, 2020, rulemaking. Additional exposures are possible from the expanded use of adipic acid; however, no toxicological endpoint of concern was identified for adipic acid below the limit dose and therefore, a quantitative assessment of exposure is not necessary.

Safety Factor for Infants and Children. EPA continues to reach the same conclusion regarding the Food Quality Protection Act (FQPA) safety factor as discussed in Unit IV.D. of the December 3, 2020, rulemaking.

Aggregate Risks and Determination of Safety. Based on the risk assessment and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to adipic acid residues when used as an inert ingredient in pesticide formulations applied to growing crops. More detailed information about the Agency's analysis can be found at *https://www.regulations.gov* in the document titled ''IN–11317; Adipic Acid: Human Health Risk and Ecological Effects Assessment of a Food Use Pesticide Inert Ingredient'' in docket ID number EPA–HQ–OPP–2019–0569.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance, without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for residues of adipic acid (CAS Reg. No. 124–04–9) when used as an inert ingredient in pesticide formulations applied pre-harvest under 40 CFR 180.920.

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 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: February 17, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA amends 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 Table 1 to 180.920 by adding, in alphabetical order, the inert ingredient ''Adipic acid (CAS Reg. No. 124–04–9)'' 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
* *	* * *	* *
Adipic acid (CAS Reg. No. 124–04–9)		Acidification or buffering agent; pH regulator
* *	* * *	* *

[FR Doc. 2022–04077 Filed 2–28–22; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0225; FRL–8572–01–OCSPP]

Ipflufenoquin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of ipflufenoquin in or on almond, almond, hulls, and fruit, pome, group 11–10. Nippon Soda Co., Ltd. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 1, 2022. Objections and requests for hearings must be received on or before May 2, 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–2020–0225, 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. The Public Reading Room is 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 OPP Docket is (703) 305–5805.

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: Marietta Echeverria, 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 EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, 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–2020–0225 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 May 2, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

Despite the regulatory instructions to submit objections or hearing requests via U.S. Mail or hand delivery, EPA strongly encourages those interested in submitting objections or a hearing request, to submit objections and hearing requests electronically. *See* Order Urging Electronic Service and Filing (April 10, 2020), *https://www.epa.gov/sites/production/files/2020-05/documents/2020-04-10_-_order_urging_electronic_service_and_filing.pdf.* At this time, because of the COVID–19 pandemic, the judges and staff of the Office of Administrative Law Judges are working remotely and not able to accept filings or correspondence by courier, personal deliver, or commercial delivery, and the ability to receive filings or correspondence by U.S. Mail is similarly limited. When submitting documents to the U.S. EPA Office of Administrative Law Judges (OALJ), a person should utilize the OALJ e-filing system, at *https://yosemite.epa.gov/OA/EAB/EAB-ALJ_upload.nsf.*

Although EPA's regulations require submission via U.S. Mail or hand deliver, EPA intends to treat submissions filed via electronic means as properly filed submissions during this time that the Agency continues to maximize telework due to the pandemic; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. If it is impossible for a person to submit documents electronically or receive service electronically, *e.g.,* the person does not have any access to a computer, the person shall so advise OALJ by contacting the Hearing Clerk at (202) 564–6281. If a person is without access to a computer and must file documents by U.S. Mail, the person shall notify the Hearing Clerk every time it files a document in such a manner. The address for mailing documents is U.S. Environmental Protection Agency, Office of Administrative Law Judges,

Mail Code 1900R, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

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–2020–0225, 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/contacts.html.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 29, 2020 (85 FR 32338) (FRL–10009–84), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F8801) by Nippon Soda Co., Ltd., Shin-Ohtemachi Bldg. 2–1, 2–Chome Ohtemachi Chiyoda-ku, Tokyo 100–8165, Japan. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide ipflufenoquin, 2-[2-(7,8-difluoro-2-methylquinolin-3-yloxy)-6-fluorophenyl]propan-2-ol, in or on almond at 0.10 ppm; almond hulls at 3.0 ppm; and pome fruit (Crop Group 11–10) at 0.15 ppm; and tolerances for residues for ipflufenoquin, QP–1–14, QP–1–10, QP–1–11, and QP–1–15 (in terms of ipflufenoquin) on cattle, fat at 0.010 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.010 ppm; dairy cattle milk at 0.01 ppm; goat, fat at 0.010 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.010 ppm; horse, fat at 0.010 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at 0.010 ppm; sheep, fat at 0.010 ppm; sheep, meat at 0.01 ppm; and sheep, meat byproducts at 0.010 ppm. That document referenced a summary of the petition prepared by Nippon Soda Co., Ltd., the registrant, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has concluded that tolerances for residues of ipflufenoquin in livestock commodities are not needed and is establishing the tolerances for almond, almond hulls, and pome fruit with several minor adjustments. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean 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 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 a tolerance 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. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for ipflufenoquin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with ipflufenoquin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies 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.

The primary targets of ipflufenoquin in rodents are teeth, the liver, thyroid, hematological system, and intestines. Tooth effects included discoloration, enamel hypoplasia, dysplasia and abrasion of the incisors. Liver effects included changes in liver weight and histopathological changes (increased single cell necrosis, bile duct hyperplasia, and hepatocellular mitotic figures). Thyroid effects were limited to follicular cell hypertrophy. Effects in the hematological system included decrease in red blood cells, hemoglobin and hematocrits, and increases in spleen weight, prothrombin time and erythropoiesis of the spleen. However, these hematological effects were considered mild and occurred at the same or higher doses than the tooth effects. Intestinal findings included black content, minimal cellular infiltration in the lamina propria of the colon, minimal hyperplasia epithelium and minimal regeneration of the surface epithelium in the colon. Intestinal and thyroid effects occurred at the same doses where tooth effects were observed only in the subchronic studies in rats. Tooth effects including discoloration, enamel hypoplasia, dysplasia and abrasion of the incisors were observed throughout the ipflufenoquin database in rodents only. The toxicology database showed no adverse toxicological effects were observed in dogs.

Potential signs of neurotoxicity were observed in the acute neurotoxicity (ACN) study, but only in one sex at the highest doses. No changes in motor activity were observed in a 13-week oral study in rats. No developmental or maternal effects were reported in the developmental studies in rats and rabbits. No treatment-related reproductive effects were reported in the reproductive toxicity study in rats. Decreased pup body weight was observed at the same doses where parental toxicity was observed.

Although no immunotoxicity study is available for ipflufenoquin, no evidence of immunotoxicity was observed in other submitted studies. No systemic toxicity was observed in a dermal study in rats up to the limit dose. Ipflufenoquin is classified as ''Not likely to be carcinogenic to humans''.

Specific information on the studies received and the nature of the adverse effects caused by ipflufenoquin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *https://www.regulations.gov* in document ''Ipflufenoquin. Human Health Risk

Assessment for Proposed Section 3 Registration of the New Active Ingredient for Uses on Pome Fruit (Crop Group 11–10) and Almond.'' (hereinafter ''Ipflufenoquin Human Health Risk Assessment'') at page 37 in docket ID number EPA–HQ–OPP–2020–0225.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticide.*

A summary of the toxicological endpoints for ipflufenoquin used for human risk assessment can be found in the Ipflufenoquin Human Health Risk Assessment.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ipflufenoquin, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from ipflufenoquin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for ipflufenoquin; therefore, a quantitative acute dietary exposure assessment is unnecessary. An acute dietary exposure assessment was not required because no endpoint attributable to a single dose was identified in the ipflufenoquin database.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the 2003–2008 food consumption data from the United States Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America. EPA conducted an unrefined chronic dietary exposure assessment using tolerance-level residues, 100% crop treated assumptions, the Agency's 2018 default processing factors, and empirical processing factors where available.

iii. *Cancer.* Based on its review of available data, EPA has concluded that ipflufenoquin is not likely to be carcinogenic. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue or PCT information in the dietary assessment for ipflufenoquin.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for ipflufenoquin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of ipflufenoquin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *https://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Tier II Exposure Model Pesticide in Water Calculator (PWC) (v1.52, Feb. 23, 2016), the estimated drinking water concentrations (EDWCs) of ipflufenoquin for acute exposures are estimated to be 3.71 parts per billion (ppb) for surface water and 53.6 ppb for ground water. For chronic exposures for non-cancer assessments are estimated to be 1.28 ppb for surface water and 49.1 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 49.1ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Ipflufenoquin is not being registered for any specific use patterns that would result in residential exposure.

4. *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, 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.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to ipflufenoquin and any other substances, and ipflufenoquin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that ipflufenoquin 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://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) 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 on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative susceptibility was seen in rat and rabbit developmental toxicity studies. Decreased pup body weight was observed in the reproduction study only in the presence of parental toxicity. Subchronic oral toxicity studies indicate

tooth discoloration and enamel hypoplasia in rats exposed to ipflufenoquin. Children are considered the most susceptible population to the tooth effects since dental enamel development and formation occurs during childhood.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for ipflufenoquin is adequate to characterize the pre- and postnatal risk for infants and children.

ii. There is evidence of potential neurotoxicity (decreased motor activity) in the ipflufenoquin database in the ACN study. However, concern is low because: The observed effects are well characterized, with clear NOAELs; they occur only at the highest doses tested; and the PODs are based on the most sensitive effects and are protective of any potential neurotoxicity.

iii. In the 2-generation reproduction study in rats, there were no reproductive effects observed, and offspring toxicity was observed only in the presence of parental toxicity. Although potential signs of neurotoxicity were observed in the ACN study, clear NOAELs/LOAELs are established, and effects occurred at high doses that are not relevant for risk assessment purposes. Moreover, although children are more susceptible to the tooth effects seen in the database, the PODs selected for risk assessment purposes are protective of the offspring and potential effects seen in the database.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to ipflufenoquin in drinking water. These assessments will not underestimate the exposure and risks posed by ipflufenoquin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, ipflufenoquin is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to ipflufenoquin from food and water will utilize less than 1% of the cPAD for the general U.S. population and all population subgroups. There are no residential uses for ipflufenoquin.

3. *Short- and intermediate-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, ipflufenoquin is not being proposed to be registered for any use patterns that would result in either short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for ipflufenoquin.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, ipflufenoquin is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to ipflufenoquin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has proposed an adequate analytical method, Method No. P 3996 G, adapted from the multi-residue method (quick, easy, cheap, effective, rugged and safe; QuEChERS; Method No. EN 15662:2009–02) for the determination of ipflufenoquin in plant commodities. For livestock commodities, adequate enforcement methodology, Method No. NCAS 18–290 (adapted from QuEChERS multi-residue enforcement method EN 15662), using high-performance liquid chromatography with tandem mass detection (HPLC/MS–MS) is available for determination of residues of ipflufenoquin.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

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).

The Codex has not established any MRLs for ipflufenoquin.

C. Revisions To Petitioned-For Tolerances

Based on the feeding study and the dietary burden estimates, EPA concludes that there is no reasonable expectation of finite residues in livestock commodities as a result of eating treated feedstuff (40 CFR 180.6(a)(3)). Therefore, tolerances for residues of ipflufenoquin in livestock commodities are not needed. Additionally, EPA corrected the pome fruit crop group commodity definition and is establishing the tolerance level for ''almond, hulls'' at 3 ppm instead of 3.0 ppm to be consistent with OECD's rounding class practices.

Although the summary of the petition cited in Unit II of this preamble indicated a request for a tolerance on almond at 0.10 ppm (and EPA's notice of filing published in the **Federal Register** indicated the request for a tolerance at 0.10 ppm), the actual petition sought a tolerance at 0.01 ppm. Based on its review of the underlying residue data, EPA has determined that it is appropriate to set the tolerance for almond at 0.01 ppm.

V. Conclusion

Therefore, tolerances are established for residues of ipflufenoquin, 2-[2-(7,8-difluoro-2-methylquinolin-3-yloxy)-6-

fluorophenyl]propan-2-ol, in or on almond at 0.01 ppm; almond, hulls at 3 ppm; and fruit, pome, group 11–10 at 0.15 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances 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 tolerances 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).

VII. 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: February 23, 2022.

Edward Messina,

Director, 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. Add § 180.719 to subpart C to read as follows:

§ 180.719 Ipflufenoquin; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide ipflufenoquin, including its metabolites and degradates, in or on the commodities to Table 1 of this section. Compliance with the tolerance levels specified in Table 1 is to be determined by measuring only ipflufenoquin, 2-[(7,8-difluoro-2-methyl-3-quinolinyl)oxy]-6-fluoro-α,α-dimethylbenzenemethanol, in or on the commodities.

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Almond	0.01
Almond, hulls	3
Fruit, pome, group 11–10	0.15

(b)–(d) [Reserved]

[FR Doc. 2022–04264 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0349; FRL–9550–01–OCSPP]

Potassium Acetate; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of potassium acetate (CAS Reg. No. 127–08–2) when used as an inert ingredient (nutrient) in pesticide formulations applied to growing crops only. Valagro S.p.A. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance for potassium acetate. This regulation eliminates the need to establish a maximum permissible level for residues of potassium acetate when used in accordance with this exemption.

DATES: This regulation is effective March 1, 2022. Objections and requests for hearings must be received on or before May 2, 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–2020–0349, 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. The Public Reading Room is 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 OPP Docket is (703) 305–5805.

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: Marietta Echeverria, 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. How 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–2020–0349 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 May 2, 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–2020–0349, 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 September 10, 2020 (85 FR 55810) (FRL–10013–78), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11369) by SciReg, Inc., on behalf of Valagro S.p.A., 12733 Director's Loop, Woodbridge, VA 22192. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of potassium acetate (CAS Reg. No. 127–08–2) when used as an inert ingredient (nutrient) in pesticide formulations applied pre-harvest. That document referenced a summary of the petition prepared by SciReg, Inc., on behalf of Valagro S.p.A., the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

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 clearly demonstrated 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. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure to potassium acetate including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with potassium acetate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies 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. Specific information on the studies received and the nature of the adverse effects caused by potassium acetate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Available acute toxicity studies show potassium acetate exhibits low oral, dermal, and inhalation toxicity. An eye irritation study showed mild effects, and a dermal irritation study showed no effect of treatment.

Potassium acetate is the potassium salt of acetic acid. In aqueous solutions potassium acetate dissociates to potassium and the acetate ion. As one of the salts of acetic acid, sodium acetate, like potassium acetate, dissociates in aqueous solutions to the acetate ion and a counter ion, in this case sodium. Based on their similarities (*e.g.,* physical/chemical properties, chemical structure, subsequent dissociation into the acetate ion and corresponding anion) data on sodium acetate has been used to support the safety determination for potassium acetate when chemical specific data was not available.

No adverse effects of treatment were seen in rats treated with sodium acetate in either a 4-week oral toxicity study or a developmental toxicity study at the highest dose tested. Therefore, the NOAEL for the 4-week study was 3,600 mg/kg/day and the parental and developmental NOAELs were 1,000 mg/kg/day.

There was no evidence of carcinogenicity or neuropathological changes or effects reported in any of the studies on potassium acetate or sodium acetate. There were no *in vitro* mutagenic effects in mutagenicity testing with sodium acetate. Therefore, there is low concern for carcinogenicity or neurotoxicity for potassium acetate.

B. Toxicological Points of Departure/Levels of Concern

No toxicological endpoint of concern for potassium acetate has been identified in the database.

C. Exposure Assessment

1. *Dietary exposure from food, feed uses, and drinking water.* In evaluating dietary exposure to potassium acetate, EPA considered exposure under the current and proposed uses of potassium acetate. Dietary exposure to potassium acetate may occur from eating foods treated with pesticide formulations containing this inert ingredient and drinking water containing runoff from soils containing the treated crops. In addition, potassium acetate is used as a food additive. However, no toxicological endpoint of concern was identified for potassium acetate, and therefore, a quantitative assessment of dietary exposure is not necessary.

2. *Non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). Residential exposure to potassium acetate may occur based on its use as an inert ingredient in pesticide formulations registered for residential uses. Additional non-dietary exposure may occur from use of potassium acetate in consumer products. However, no toxicological endpoint of concern was identified for potassium acetate, and therefore, a quantitative residential exposure assessment for potassium acetate was not conducted.

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 found potassium acetate to share a common mechanism of toxicity with any other substances, and potassium acetate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has assumed that potassium acetate does not have 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 the FFDCA requires EPA to retain an additional tenfold margin of safety in the case of threshold effects 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. As noted in Unit IV.B., there is no indication of threshold effects being caused by potassium acetate. Due to the lack of any toxicological endpoints of concern, EPA conducted a qualitative assessment of potassium acetate, which does not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on potassium acetate, 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 potassium acetate residues. Therefore, the establishment of an exemption from the requirement of a tolerance under 40 CFR 180.920 for residues of potassium acetate when used as an inert ingredient in pesticide formulations applied to growing crops is safe under FFDCA section 408.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for potassium acetate (CAS Reg. No. 84632–65–5) when used as an inert ingredient (nutrient) in pesticide formulations applied to growing crops only.

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: February 17, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, 40 CFR chapter I is amended 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 Table 1 to 180.920 by adding in alphabetical order the inert ingredient ''Potassium acetate (CAS Reg. No. 127–08–2)'' 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
* * *	*	*
Potassium acetate (CAS Reg. No. 127–08–2).	.....	Nutrient.
* * *	*	*

[FR Doc. 2022–04078 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220216–0050]

RIN 0648–BK44

Atlantic Highly Migratory Species; Consistency Modifications and Corrections

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

ACTION: Final rule; technical corrections.

SUMMARY: This final rule makes editorial corrections to the regulations for Atlantic highly migratory species (HMS). This final rule corrects citations that are currently incorrect due to changes to references in other parts of the regulations. In addition, this final action corrects minor technical items in the regulations that are missing, inconsistent, or incorrect, and also clarifies extraneous language to make the regulations more readable. The rule is administrative in nature and does not make any change with substantive effect to the regulations for HMS fisheries.

DATES: This final rule is effective on March 1, 2022.

ADDRESSES: Documents related to HMS fisheries management, such as the 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments, are available from the HMS Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or upon request from the HMS Management Division by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., *larry.redd@noaa.gov,* Thomas Warren, *thomas.warren@noaa.gov,* or Steve Durkee, *steve.durkee@noaa.gov,* by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

Background

Since publishing the 2006 Consolidated HMS FMP, NMFS has

amended the FMP 12 times through the fishery management plan amendment process and has made numerous other regulatory changes through framework actions. With this volume of regulatory action, in addition to changes in non-HMS fisheries regulations, inadvertent errors and inconsistencies have accumulated in the regulations and regulatory cross-references over time. This technical amendment corrects missing, inconsistent, or incorrect language, and clarifies extraneous language in the HMS regulations at 50 CFR part 635. It also corrects cross-references to regulations as appropriate.

Clarification Corrections

This final action clarifies the HMS regulations as follows:

The regulation at § 635.4(a)(10) provides permit conditions for HMS permit holders. The regulation unintentionally omitted ''Atlantic tunas'' permits. Adding ''Atlantic tunas'' clarifies this regulation and removes any confusion for permit holders who hold multiple types of HMS permits. The associated rulemaking that established this requirement was the 2006 Consolidated HMS FMP (71 FR 58058; October 2, 2006).

The regulation at § 635.5(a)(4) currently states that owners permitted under the Atlantic Tunas General, Harpoon, or HMS Charter/Headboat categories must report bluefin tuna discards in the NMFS electronic catch reporting system. This rule clarifies that they must report only dead discards, not live releases. The associated rulemaking that established this requirement was Amendment 7 to the 2006 Consolidated HMS FMP (79 FR 71509; December 2, 2014).

Several changes are being made at § 635.5(d) to remove and modify language to clarify the tournament operator requirements. Specifically, this final rule:

- Removes the redundant language, ''HMS Management Division,'' in two locations.
- Removes an excessive and unnecessary phrase (''. . . by submitting information on the purpose, dates, and location of the tournament to NMFS'') for clarity.
- Removes the sentence ''NMFS will notify the tournament operator in writing when a tournament has been selected for reporting,'' as this sentence is no longer needed due to a previous notice that notified the affected community that all tournaments are automatically selected for reporting (83 FR 63831; December 12, 2018).
- Removes the phrase ''that are selected to report'' because all Atlantic HMS tournaments are selected for reporting, which began on January 1, 2019. The associated notice for this this requirement was published on July 17, 2018 (83 FR 33148).
- Adds the phrase ''. . . details of the tournament catch and fishing activities, completing all required fields on the NMFS tournament summary report no later than 7 days after tournament fishing has ended'' and removes the language ''. . . a record of catch and effort on forms available from NMFS. Tournament operators must submit the completed forms to NMFS, at an address designated by NMFS, postmarked no later than the 7th day after the conclusion of the tournament, and must attach a copy of the tournament rules'' to clarify the regulation language. The associated rulemaking that established this requirement was the 2006 Consolidated HMS FMP (71 FR 58058; October 2, 2006). These removals and modifications provide further clarity to the regulation.

Typographical Corrections

This final action corrects two typographical errors in the HMS regulations. The regulation at § 635.19(e)(1) does not capitalize the words ''North'' and ''South.'' This final action corrects this error and capitalizes ''North'' and ''South.''

Consistency Corrections

This final rule corrects the Atlantic Tunas General category permit name as it has been incorrectly cited in several locations. The regulations at §§ 635.22(a)(2) and (3) and 635.27(a)(1)(i), incorrectly cite the Atlantic Tunas General category permit name as ''HMS General Category permit.'' Correcting permit names would create consistency across the regulations. This final rule also removes the definition of Mid-Atlantic-Bight at § 635.2 because the definition is not referenced anywhere else in the part 635 regulations. In addition, this final rule corrects the regulations at § 635.21(d)(1)(iii)(D) Charleston Deep Artificial Reef, which left off one coordinate in the spawning Special Management Zones coordinate list. The associated rulemaking that established this requirement was published on July 17, 2018 (83 FR 33148).

Cross References Corrections

This final action corrects the incorrect cross references found in the definitions and regulations at §§ 635.4(h)(1)(iv) and (n)(2) and 635.54. Section 635.4(h)(1)(iv) and (n)(2) incorrectly reference the *Illex* squid moratorium permit described at § 648.4(a)(5)(i). The correct cross reference should be § 648.4(a)(5)(ii). Section 635.54 incorrectly references that owners and operators of U.S. vessels are subject to inspection under § 635.23. The correct cross reference should be § 635.52.

Classification

The Assistant Administrator for Fisheries has determined that this final rule is necessary for the conservation and management of U.S. fisheries and that it is consistent with the Magnuson-Stevens Act, the objectives of the 2006 Consolidated HMS FMP and its amendments, ATCA, and other applicable law.

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 are unnecessary and contrary to the public interest. This final rule makes only corrective, non-substantive changes to regulatory text, corrects cross-references to HMS and other regulations, removes unnecessary language in several instances, and is solely administrative in nature. Therefore, public comment is unnecessary and would delay necessary corrections that will help prevent potential confusion for the public.

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

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, and a proposed rule is not being published, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

NMFS has determined that fishing activities conducted pursuant to this rule will not affect endangered and/or threatened species or critical habitat listed under the Endangered Species Act, or marine mammals protected by the Marine Mammal Protection Act, because the action is purely administrative in nature by making editorial corrections or clarifications to existing regulatory text, with no substantive changes or effects.

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

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: February 23, 2022.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

§ 635.2 [Amended]

■ 2. In § 635.2, remove the definition for ''Mid-Atlantic Bight.''

■ 3. In § 635.4, revise paragraphs (a)(10), (h)(1)(iv), and (n)(2) to read as follows:

§ 635.4 Permits and fees.

* * * * *

(a) * * *

(10) *Permit condition.* An owner of a vessel with a valid Atlantic tunas, swordfish, shark, HMS Angling, HMS Charter/Headboat, Incidental HMS squid trawl, or HMS Commercial Caribbean Small Boat permit issued pursuant to this part must agree, as a condition of such permit, that the vessel's HMS fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the U.S. EEZ, or outside the U.S. EEZ, and without regard to where such HMS, or gear, are possessed, taken, or landed. However, when a vessel fishes within the waters of a state that has more restrictive regulations pertaining to HMS, persons aboard the vessel must abide by the state's more restrictive regulations.

* * * * *

(h) * * *

(1) * * *

(iv) An applicant for an incidental HMS squid trawl permit must submit, in addition to all other information specified in paragraph (h)(1) of this section, a copy of a valid *Illex* squid moratorium permit, as described at § 648.4(a)(5)(ii) of this chapter.

* * * * *

(n) * * *

(2) An Incidental HMS squid trawl permit is valid only when the vessel has on board a valid *Illex* squid moratorium permit, as described at § 648.4(a)(5)(ii) of this chapter, and no commercial fishing gear other than trawl gear.

* * * * *

■ 4. In § 635.5, revise paragraphs (a)(4) and (d) to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(4) *Bluefin tuna discarded dead, or landed by a commercial vessel and sold.* The owner of a vessel that has been permitted or that is required to be permitted under § 635.4 in the Atlantic Tunas General or Harpoon categories, or has been permitted or is required to be permitted under § 635.4 under the HMS Charter/Headboat category and fishing under the General category quotas and daily limits as specified at § 635.23(c), must report all dead discards and/or landings of bluefin tuna through the NMFS electronic catch reporting system within 24 hours of the landings or the end of trip. Such reports may be made by either calling a phone number designated by NMFS or by submitting the required information online to a website or application designated by NMFS. The owner of a vessel that has been permitted in a different bluefin tuna category must report as specified elsewhere in this section.

* * * * *

(d) *Tournament operators.* For all tournaments that are conducted from a port in an Atlantic coastal state, including the U.S. Virgin Islands and Puerto Rico, a tournament operator must register with NMFS at least 4 weeks prior to commencement of the tournament. A tournament is not registered unless the tournament operator has received a confirmation number from NMFS. Tournament operators must maintain and submit to NMFS details of the tournament catch and fishing activities, completing all required fields, on the NMFS tournament summary report no later than 7 days after the tournament has ended.

* * * * *

■ 5. In § 635.19, revise paragraph (e)(1) to read as follows:

§ 635.19 Authorized gears.

* * * * *

(e) * * *

(1) No person may possess North Atlantic swordfish taken from its management unit by any gear other than handgear, green-stick, or longline, except that such swordfish taken incidentally while fishing with a squid trawl may be retained by a vessel issued a valid Incidental HMS squid trawl permit, subject to restrictions specified in § 635.24(b)(2). No person may possess South Atlantic swordfish taken from its management unit by any gear other than longline.

* * * * *

■ 6. In § 635.21, revise paragraph (d)(1)(iii)(D) to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(D) *Charleston Deep Artificial Reef.* Bounded by rhumb lines connecting, in order, the following points: 32°05.04′ N lat. 79°13.575′ W long.; 32°9.65′ N lat., 79°9.2′ W long.; 32°7.155′ N lat., 79°5.595′ W long.; 32°2.36′ N lat., 79°9.975′ W long.; 32°5.04′ N lat., 79°13.575′ W long.

* * * * *

■ 7. In § 635.22, revise paragraphs (a)(2) and (3) to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(a) * * *

(2) Vessels issued an Atlantic Tunas General category permit under § 635.4(d) that are participating in an HMS registered tournament, vessels issued an HMS Angling category permit under § 635.4(c), or vessels issued an HMS Charter/Headboat permit under § 635.4(b) may not retain, possess, or land oceanic whitetip sharks or scalloped, smooth, or great hammerhead sharks if swordfish, tuna, or billfish are retained or possessed on board, or offloaded from, the vessel. Such vessels also may not retain, possess, or land swordfish, tuna, or billfish if oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks are retained or possessed on board, or offloaded from, the vessel.

(3) Vessels issued an Atlantic Tunas General category permit under § 635.4(d) that are participating in an HMS registered tournament, vessels issued a Swordfish General commercial permit under § 635.4(f) that are participating in an HMS registered tournament, vessels issued a HMS Angling category permit under § 635.4(c), or vessels issued an HMS Charter/Headboat permit under § 635.4(b) are required to release unharmed, to the extent practicable, porbeagle sharks that are alive at the time of haulback if swordfish, tuna, or billfish are retained or possessed on board, or offloaded from, the vessel during that trip.

* * * * *

■ 8. In § 635.27, revise the introductory text of paragraph (a)(1)(i) to read as follows:

§ 635.27 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) Catches from vessels for which Atlantic Tunas General category permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). Pursuant to paragraph (a) of this section, the amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold under the General category quota is 555.7 mt, and is apportioned as follows, unless modified as described under paragraph (a)(1)(ii) of this section:

* * * * *

■ 9. In § 635.54, revise the introductory text to read as follows:

§ 635.54 Reports.

Owners and operators of U.S. vessels subject to inspection under § 635.52 are hereby notified that the ICCAT recommendation establishing a scheme for minimum standards for inspection in port requires that:

* * * * *

[FR Doc. 2022–04263 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 40
Tuesday, March 1, 2022

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2021–BT–STD–0035 and EERE–2021–BT–TP–0036]

Energy Conservation Program: Test Procedures and Energy Conservation Standards for Consumer Products; Consumer Air Cleaners; Reopening of Comment Period

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

ACTION: Request for information; reopening of public comment period.

SUMMARY: On January 25, 2022, the U.S. Department of Energy (DOE or the Department) published in the **Federal Register** a request for information (RFI) regarding Test Procedures and Energy Conservation Standards for Consumer Air Cleaners. On February 10, 2022, DOE received a joint comment from the Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric (SDG&E), Southern California Edison (SCE), the Appliance Standards Awareness Project (ASAP), and the Association of Home Appliance Manufacturers (AHAM), (collectively, the ''Joint Commenters''), requesting a 45-day extension of the public comment period for the RFI. DOE has reviewed these requests and is reopening the public comment period to allow comments to be submitted until April 10, 2022.

DATES: The comment period for the RFI published in the **Federal Register** on January 25, 2022 (87 FR 3702) is reopened. Written comments, data, and information are requested and will be accepted on and before April 10, 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–STD–0035 and EERE–2021–BT–TP–0036, by any of the following methods:

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

2. *Email:* to *AirCleaners2021STD0035@ee.doe.gov* or *AirCleaners2021TP0036@ee.doe.gov.* Include docket number EERE–2021–BT–STD–0035 and EERE–2021–BT–TP–0036 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 IV of this document.

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

Docket: The docket for this activity, which includes **Federal Register** notices, 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 pages can be found at: *www.regulations.gov/docket/EERE-2021-BT-TP-0036* and *www.regulations.gov/docket/EERE-2021-BT-STD-0035.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION: On January 25, 2022, DOE published in the **Federal Register** a request for information (RFI) Regarding Test Procedures and Energy Conservation Standards for Consumer Air Cleaners. The RFI provided an opportunity for submitting written comments, data, and information on the proposal by February 24, 2022. 87 FR 3702 DOE is seeking comment from interested parties on the RFI.

On February 10, 2022, DOE received a comment extension request from the Joint Commenters arguing that further time is needed because they are actively engaged in a negotiation regarding the scope, test procedure, and energy efficiency standards for consumer air cleaners and are working to develop substantive comments to the RFI consistent with their discussions.[1] (Joint Commenters, No. 1 at p. 1)

DOE has reviewed the request and is reopening the comment period to allow additional time for interested parties to submit comments. The RFI was published in the **Federal Register** on January 25, 2022, and a 30-day comment period was provided from the date of publication. In light of the submitted request, DOE believes that additional time is warranted, and that reopening the comment period until April 10, 2022 is sufficient. Therefore, DOE is reopening the comment period until April 10, 2022.

Signing Authority

This document of the Department of Energy was signed on February 22,

[1] *See www.regulations.gov/comment/EERE-2021-BT-STD-0035-0002.*

2022, 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 administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 23, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–04188 Filed 2–28–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0019]

RIN 1904–AD91

Energy Conservation Program: Energy Conservation Standards for Consumer Water Heaters

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

ACTION: Notification of availability of preliminary technical support document and request for comment.

SUMMARY: The U.S. Department of Energy (DOE or the Department) announces the availability of the preliminary analysis it has conducted for purposes of evaluating the need for amended energy conservation standards for consumer water heaters, which is set forth in the Department's preliminary technical support document (TSD) for this rulemaking. DOE will hold a public meeting via webinar to discuss and receive comment on its preliminary analysis. The meeting will cover the analytical framework, models, and tools used to evaluate potential standards; the results of preliminary analyses performed; potential energy conservation standard levels derived from these analyses (if DOE determines that proposed amendments are necessary); and other relevant issues. In addition, DOE encourages written comments on these subjects.

DATES:

Comments: DOE will accept written comments, data, and information regarding its preliminary analysis for consumer water heaters no later than May 2, 2022.

Meeting: DOE will hold a public meeting via webinar on Tuesday, April 12, 2022, from 1:00 p.m. to 5:00 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–STD–0019 and/or RIN 1904–AD91, by any of the following methods:

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

2. *Email:* to *ConsumerWaterHeaters2017STD0019@ee.doe.gov.* Include docket number EERE–2017–BT–STD–0019 and/or RIN 1904–AD91 in the subject line of the message.

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

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 (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.

To inform interested parties and to facilitate this rulemaking process, DOE has prepared an agenda, a preliminary TSD, and briefing materials, which are available on the DOE website at: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=32.*

Docket: The docket for this activity, which includes **Federal Register** notices, 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, not all documents listed in the index may be publicly available, such as those containing information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-STD-0019.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section IV (Public Participation) for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 597–6737. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5827. Email: *Eric.Stas@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Authority

The Energy Policy and Conservation Act, as amended (EPCA),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include consumer water heaters, the subject of this document. (42 U.S.C. 6292(a)(4))

EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(e)(1)), and the statute directed DOE to conduct two cycles of rulemakings to determine whether to amend these standards (42 U.S.C. 6295(e)(4)). EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (NOPR) including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

DOE completed the first of these rulemaking cycles on January 17, 2001, by publishing in the **Federal Register** a final rule amending the energy conservation standards for consumer water heaters. 66 FR 4474 (*establishing* amended standards with a requirement for compliance starting on January 20, 2004) (January 2001 Final Rule). Subsequently, DOE completed the second rulemaking cycle to amend the standards for consumer water heaters by publishing a final rule in the **Federal Register** on April 16, 2010. 75 FR 20112 (*establishing* amended consumer water heater standards with a requirement for compliance starting on April 16, 2015) (April 2010 Final Rule). As directed by later amendments to EPCA [3] (*see* 42 U.S.C. 6295(e)(5)(B)), on July 11, 2014, DOE published in the **Federal Register** a final rule amending the test procedure for consumer water heaters to change the efficiency metric from energy factor (EF) to uniform energy factor (UEF). 79 FR 40542. The existing EF-based energy conservation standards were then translated from EF to UEF in a separate DOE conversion factor final rule published in the **Federal Register** on December 29, 2016, that established a method for converting EF to UEF for water heater basic models that were previously in existence. 81 FR 96204 (December 2016 Conversion Factor Final Rule). The current energy conservation standards for consumer water heaters are located in the Code of Federal Regulations (CFR) at 10 CFR 430.32(d) and are set forth in Table II.1 in section A of this document. The currently applicable DOE test procedures for consumer water heaters appear at 10 CFR part 430, subpart B, appendix E (Appendix E).

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this preliminary analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including consumer water heaters. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (Secretary) be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[4] For example, the United States rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse gas (GHG) emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emissions have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the U.S. energy infrastructure can be more pronounced than those of products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in not only site energy use, but also primary energy and full-fuel-cycle (FFC) effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and, thus, present a more complete picture of the impacts of energy conservation standards.[5] Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

To determine whether a proposed new or amended energy conservation standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

[1] All references to EPCA in this document refer to the statute as amended through the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021).

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

[3] The requirement for a consumer water heater test procedure using uniform energy factor as a metric, as well as the requirement for DOE to undertake a conversion factor rulemaking to translate existing consumer water heater standards denominated in terms of EF to ones denominated in terms of UEF, were part of the amendments to EPCA contained in the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

[4] *See* 86 FR 70892, 70901 (Dec. 13, 2021).

[5] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis.
2. Lifetime operating cost savings compared to increased cost for the product	• Shipments Analysis. • Mark-ups for Product Price Analysis. • Energy Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits.[6] • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments to EPCA contained in the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for consumer water heaters address standby mode and off mode energy use. In this rulemaking, DOE intends to incorporate such energy use into any amended energy conservation standards it adopts in the final rule.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools

[6] Currently, in compliance with the preliminary injunction issued on February 11, 2022, in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.), DOE is not monetizing the costs of greenhouse gas emissions.

that DOE intends to use to evaluate potential standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current energy conservation standards for consumer water heaters pursuant to its obligations under EPCA. This document announces the availability of the preliminary TSD, which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting webinar to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

C. Deviation from Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for an energy conservation standards rulemaking. *See* 86 FR 70892 (Dec. 13, 2021) (effective January 12, 2022). Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking.

DOE is opting to deviate from this step by publishing a preliminary analysis without a framework document. A framework document is intended to introduce and summarize the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in section B, prior to this notification of the preliminary analysis DOE published a request for information (''RFI'') in which DOE identified and sought comment on the analyses conducted in support of the most recent energy conservation standards rulemakings. 85 FR 30853 (May 21, 2020; ''May 2020 RFI''). Specifically, in the May 2020 RFI, DOE sought data and information as to whether any new or amended rule would be cost effective, economically justified, technologically feasible, or would result in a significant savings of energy. 85 FR 30853, 30855. DOE sought such data and information to assist in its consideration of whether (and if so, how) to amend the standards for consumer water heater. *Id.* Further, DOE provided an overview of the analysis it would use to evaluate new or amended energy conservation standards, including references to and requests for comment on the analyses conducted as part of the most recent energy conservation standards rulemakings. *See* 85 FR 30853, 30859–30877. As DOE is intending to rely on substantively the same analytical methods as in the most recent rulemaking, publication of a framework document would be largely redundant with the published May 2020 RFI. As such, DOE is not publishing a framework document.

Section 6(d)(2) of appendix A provides that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to provide a 60-day comment period. As stated, DOE requested comment in the May 2020 RFI on the previous energy conservation standards analyses. For this preliminary analysis, DOE has relied on many of the same analytical assumptions and approaches as used in the previous rulemaking and has determined that a 60-day comment period in conjunction with the prior comment period for the May 2020 RFI provides sufficient time for interested parties to review the preliminary analysis and develop comments.

II. Background

A. Current Standards

In a final rule published in the **Federal Register** on April 16, 2010 (April 2010 Final Rule), DOE prescribed the current energy conservation standards for consumer water heaters, which are applicable to such products manufactured on and after April 16, 2015. 75 FR 20111, 20234.

As explained in section A of this document, DOE published the December 2016 Conversion Factor Final Rule in the **Federal Register** (81 FR 96204 (Dec. 29, 2016)) to convert standards based on EF to standards based on UEF, the metric produced by the amended test procedure established by the July 2014 Final Rule (79 FR 40542 (July 11, 2014)). These standards are set forth in DOE's regulations at 10 CFR 430.32(d) and are repeated here in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR CONSUMER WATER HEATERS

Product class	Rated storage volume and input rating (if applicable)	Draw pattern	Uniform energy factor
Gas-fired Storage Water Heater	≥20 gal and ≤55 gal	Very Small	$0.3456 - (0.0020 \times V_r)$.
		Low	$0.5982 - (0.0019 \times V_r)$.
		Medium	$0.6483 - (0.0017 \times V_r)$.
		High	$0.6920 - (0.0013 \times V_r)$.
	>55 gal and ≤100 gal	Very Small	$0.6470 - (0.0006 \times V_r)$.
		Low	$0.7689 - (0.0005 \times V_r)$.
		Medium	$0.7897 - (0.0004 \times V_r)$.
		High	$0.8072 - (0.0003 \times V_r)$.
Oil-fired Storage Water Heater	≤50 gal	Very Small	$0.2509 - (0.0012 \times V_r)$.
		Low	$0.5330 - (0.0016 \times V_r)$.
		Medium	$0.6078 - (0.0016 \times V_r)$.
		High	$0.6815 - (0.0014 \times V_r)$.
Electric Storage Water Heater	≥20 gal and ≤55 gal	Very Small	$0.8808 - (0.0008 \times V_r)$.
		Low	$0.9254 - (0.0003 \times V_r)$.
		Medium	$0.9307 - (0.0002 \times V_r)$.
		High	$0.9349 - (0.0001 \times V_r)$.
	>55 gal and ≤120 gal	Very Small	$1.9236 - (0.0011 \times V_r)$.
		Low	$2.0440 - (0.0011 \times V_r)$.
		Medium	$2.1171 - (0.0011 \times V_r)$.
		High	$2.2418 - (0.0011 \times V_r)$.
Tabletop Water Heater	≥20 gal and ≤120 gal	Very Small	$0.6323 - (0.0058 \times V_r)$.
		Low	$0.9188 - (0.0031 \times V_r)$.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR CONSUMER WATER HEATERS—Continued

Product class	Rated storage volume and input rating (if applicable)	Draw pattern	Uniform energy factor
		Medium	$0.9577 - (0.0023 \times V_r)$.
		High	$0.9884 - (0.0016 \times V_r)$.
Instantaneous Gas-fired Water Heater	<2 gal and >50,000 Btu/h	Very Small	0.80.
		Low	0.81.
		Medium	0.81.
		High	0.81.
Instantaneous Electric Water Heater	<2 gal	Very Small	0.91.
		Low	0.91.
		Medium	0.91.
		High	0.92.
Grid-Enabled Water Heater	>75 gal	Very Small	$1.0136 - (0.0028 \times V_r)$.
		Low	$0.9984 - (0.0014 \times V_r)$.
		Medium	$0.9853 - (0.0010 \times V_r)$.
		High	$0.9720 - (0.0007 \times V_r)$.

* ''Vr'' is the Rated Storage Volume (in gallons), as determined pursuant to 10 CFR 429.17.

As stated in section A of this document, EPCA, as amended, prescribed initial energy conservation standards for consumer water heaters, as shown in Table II.2. (42 U.S.C. 6295(e)(1)) DOE notes that the statutory energy conservation standards apply to both storage and instantaneous consumer water heaters regardless of volume capacity. As such, the energy conservation standards shown in Table II.2 would cover the volume and input rate ranges not included in Table II.1.

TABLE II.2—CONSUMER WATER HEATER ENERGY CONSERVATION STANDARDS PRESCRIBED BY EPCA

Product class	The energy factor shall be not less than the following for products manufactured on or after January 1, 1990
Gas Water Heater	0.62 − (0.0019 × Rated Storage Volume in gallons).
Oil Water Heater	0.59 − (0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	0.95 − (0.00132 × Rated Storage Volume in gallons).

B. Current Process

As stated, on May 21, 2020, DOE published notice in the **Federal Register** through a request for information that it was initiating a review to determine whether any new or amended standards for consumer water heaters would satisfy the relevant requirements of EPCA. 85 FR 30853. Specifically, through the published notice and RFI, DOE sought data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more-stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.* at 85 FR 30855.

Comments received to date as part of the current process have helped DOE identify and resolve issues related to development of the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received. Further comments are requested throughout the preliminary TSD and executive summary.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) mark-ups to determine product price; (3) energy use; (4) life cycle cost (LCC) and payback period (PBP); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=32.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose new or amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (NIA). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR, should one be issued.

A. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of consumer water heaters. There are two elements to consider in the engineering analysis: (1) The selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and (2) the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the baseline cost, as well as the incremental cost, for the product/equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream

analyses (*i.e.,* the LCC and PBP analyses and the NIA).

DOE converts the Manufacture Production Cost (MPC) to the manufacturer selling price (MSP) by applying a manufacturer mark-up. The MSP is the price the manufacturer charges its first customer, when selling into the consumer water heater distribution channels. The manufacturer mark-up accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer mark-up by examining publicly-available financial information for manufacturers of the covered product.

See Chapter 5 of the preliminary TSD for additional detail on the engineering analysis and Chapter 12 of the preliminary TSD for additional detail on the manufacturer mark-up.

B. Mark-Ups Analysis

The mark-ups analysis develops appropriate mark-ups (*e.g.,* retailer mark-ups, distributor mark-ups, contractor mark-ups) in the distribution chain and sales taxes to convert MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain for consumer water heaters. Baseline mark-ups are applied to the price of products with baseline efficiency, while incremental mark-ups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental mark-up is typically less than the baseline mark-up and is designed to maintain similar per-unit operating profit before and after new or amended standards.[7]

Chapter 6 of the preliminary TSD provides details on DOE's development of mark-ups for consumer water heaters.

C. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of consumer water heaters at different efficiencies in representative U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings potential of increased consumer water heater efficiency. The energy use analysis estimates the range of energy use of consumer water heaters in the field (*i.e.,* as they are actually used by consumers). In addition, the energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new energy conservation standards.

Chapter 7 of the preliminary TSD addresses the energy use analysis.

D. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain mark-ups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[8] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of consumer water heaters sold from 2030 through 2059.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of product with efficiencies greater than the standard.

For the NIA, DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base-case efficiency projection, product switching parameters, and discount rates. Chapter 10 of the preliminary TSD addresses the NIA.

F. Other Analyses

As stated in section A of this document, EPCA does not prescribe storage volume or minimum input rating limits within its definition of consumer ''water heater.'' However, DOE's energy conservation standards for consumer water heaters at 10 CFR 430.32(d) do not include certain storage volume and input rating ranges. The storage volume and input rating ranges currently covered by the statutory standards at 42 U.S.C. 6295(e)(1) but not included in the list of energy conservation standards in DOE's regulations at 10 CFR 430.32(d) are set forth in Table III.1.

[7] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same mark-up for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive, it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

[8] The NIA accounts for impacts in the 50 States and U.S. territories.

TABLE III.1—CONSUMER WATER HEATERS WITHOUT UEF-BASED ENERGY CONSERVATION STANDARDS

Product class	Rated storage volume and input rating (if applicable)
Gas-fired Storage	<20 gal.
	>100 gal.
Oil-fired Storage	>50 gal.
Electric Storage	<20 gal.
	>120 gal.
Tabletop	<20 gal.
	>120 gal.
Gas-fired Instantaneous	<2 gal and ≤50,000 Btu/h.
	≥2 gal and ≤50 kBtu/h.
	≥2 gal and >50 kBtu/h.
Oil-fired Instantaneous	All.
Electric Instantaneous	≥2 gal.

In the December 2016 Conversion Factor Final Rule, DOE stated that it would not enforce the statutory standards (*i.e.,* those prescribed by EPCA but are not codified in the CFR) applicable to the consumer water heaters that did not have a standard within the CFR until some point after DOE finalizes the conversion factor and the converted standards applicable to those products. 81 FR 96204, 96211 (Dec. 29, 2016). DOE will consider and may establish energy conservation standards for these products in this rulemaking. See Chapter 5 of the preliminary TSD for additional detail on the conversion of the remaining EF-based standards established by EPCA to UEF-based standards.

On January 11, 2022, DOE published a test procedure NOPR in the **Federal Register** which proposed new definitions for certain types of consumer water heaters. 87 FR 1554 (January 2022 WH TP NOPR). These definitions included ''circulating water heater'' [9] and ''low temperature water heater.'' [10] These water heaters cannot be tested using the existing test procedure in Appendix E but can be tested using the proposed test procedures found in the January 2022 WH TP NOPR. See Chapter 5 of the preliminary TSD for additional detail on the product classes in which these products are covered and a discussion of the applicable energy conservation standards.

[9] The January 2022 WH TP NOPR proposed to define ''circulating water heater'' at 10 CFR 430.2 as an instantaneous or heat pump type water heater that does not have an operational scheme in which the burner, heating element, or compressor initiates and terminates heating based on sensing flow; has a water temperature sensor located at the inlet of the water heater or in a separate storage tank that is the primary means of initiating and terminating heating; and, must be used in combination with a recirculating pump and either a separate storage tank or water circulation loop in order to achieve the water flow and temperature conditions recommended in the manufacturer's installation and operation instructions. 87 FR 1554, 1595 (Jan. 11, 2022).

[10] The January 2022 WH TP NOPR proposed to define a ''low temperature water heater'' as an electric instantaneous water heater that is not a circulating water heater and cannot deliver water at a temperature greater than or equal to the set point temperature specified in section 2.5 of appendix E to subpart B of this part when supplied with water at the supply water temperature specified in section 2.3 of appendix E to subpart B of this part. 87 FR 1554, 1595 (Jan. 11, 2022).

IV. Public Participation

DOE invites public engagement in this process through participation in the webinar and submission of written comments, data, and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the energy conservation standards for consumer water heaters need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by this rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=32.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting webinar. Such persons may submit requests to speak via email to the Appliance and Equipment Standards Program at: *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the public meeting webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the public meeting webinar and may also use a professional facilitator to aid discussion. The webinar will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record

the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The public meeting webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting webinar.

A transcript of the public meeting webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the public meeting webinar, to submit in writing no later than the date provided in the **DATES** section at the beginning of this document, comments, data, and information on matters addressed in this notification and on other matters relevant to DOE's consideration of potential amended energy conservations standards for consumer water heaters. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

However, your contact information will be publicly viewable if you include it in the comment itself 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. If this instruction is followed, 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 in 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 telefacsimiles (faxes) will be accepted.

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

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

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

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

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of availability of the preliminary technical support document and request for comment.

Signing Authority

This document of the Department of Energy was signed on February 13, 2022, 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 administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 22, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–04013 Filed 2–28–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2018–BT–STD–0003]

RIN 1904–AE42

Energy Conservation Program: Energy Conservation Standards for Variable Refrigerant Flow Multi-Split Air Conditioners and Heat Pumps

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

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: In this document, the U.S. Department of Energy (''DOE'' or the ''Department'') is proposing amended energy conservation standards for variable refrigerant flow (VRF) multi-split air conditioners and VRF multi-split system heat pumps (collectively referred to as ''VRF multi-split systems'') that rely on a new cooling efficiency metric and are equivalent to those levels specified in the industry standard. DOE has preliminarily determined that it lacks the clear and convincing evidence required by the statute to adopt standards more stringent than the levels specified in the industry standard. This document also announces a public meeting webinar to receive comment on these proposed standards and associated analyses and results.

DATES:

Comments: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than May 2, 2022. See section VII, ''Public Participation,'' of this document for details.

Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section on or before March 31, 2022.

Meeting: DOE will hold a public meeting via webinar on Wednesday, March 23, 2022, from 1:00 p.m. to 4:00 p.m. See section VII, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

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–2018–BT–STD–0003, by any of the following methods:

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

(2) *Email: to multisplitachp2018std0003@ee.doe.gov. Include docket number EERE–2018–BT–STD–0003 in the subject line of the message.*

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

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 corona virus (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, 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, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at: *www.regulations.gov/#!docketDetail;D=EERE-2018-BT-STD-0003.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII (Public Participation) for information on how to submit comments through *www.regulations.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy following the instructions at *www.RegInfo.gov.*

EPCA requires the U.S. Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice (DOJ) Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard. Interested persons may contact the Antitrust Division at *energy.standards@usdoj.gov* on or before the date specified in the **DATES** section. Please indicate in the ''Subject'' line of your email the title and Docket Number of this proposed rulemaking.

FOR FURTHER INFORMATION CONTACT:

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For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting webinar, contact the Appliance and Equipment Standards Program staff at (202) 287–

1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Synopsis of the Proposed Rule

Title III, Part C [1] of the Energy Policy and Conservation Act, as amended (EPCA),[2] established the Energy Conservation Program for Certain Industrial Equipment. (42 U.S.C. 6311–6317) Such equipment includes small, large, and very large commercial package air conditioning and heating equipment, of which VRF multi-split systems, the subject of this rulemaking, are a category. (42 U.S.C. 6311(1)(B)–(D))

Pursuant to EPCA, DOE is required to consider amending the energy efficiency standards for certain types of covered commercial and industrial equipment, including the equipment at issue in this document, whenever the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) amends the standard levels or design requirements prescribed in ASHRAE Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings,'' (ASHRAE Standard 90.1), and at a minimum, every six 6 years. (42 U.S.C. 6313(a)(6)(A)–(B)) For each type of equipment, EPCA directs that if ASHRAE Standard 90.1 is amended, DOE must adopt amended energy conservation standards at the new efficiency level in ASHRAE Standard 90.1, unless clear and convincing evidence supports a determination that adoption of a more-stringent efficiency level would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii); referred to as the ''ASHRAE trigger'') If DOE adopts as a uniform national standard the efficiency level specified in the amended ASHRAE Standard 90.1, DOE must establish such standard not later than 18 months after publication of the amended industry standard. (42 U.S.C. 6313(a)(6)(A)(ii)(I)) If DOE determines that a more-stringent standard is appropriate under the statutory criteria, DOE must establish such more-stringent standard not later than 30 months after publication of the revised ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(B)(i))

Under EPCA, DOE must also review its energy conservation standards for VRF multi-split systems every six years and either: (1) Issue a notice of determination that the standards do not need to be amended, as adoption of a more-stringent level under the relevant statutory criteria is not supported by clear and convincing evidence; or (2) issue a notice of proposed rulemaking including new proposed standards based on certain criteria and procedures in subparagraph (B).[3] (42 U.S.C. 6313(a)(6)(C)(i))

ASHRAE officially released ASHRAE Standard 90.1–2016 on October 26, 2016, thereby triggering DOE's previously referenced obligations pursuant to EPCA to determine for certain classes of VRF multi-split systems, whether: (1) The amended industry standard should be adopted; or (2) clear and convincing evidence exists to justify more-stringent standard levels. For any class where DOE was not triggered, the Department routinely considers those classes under the statute's 6-year-lookback provision at the same time, so as to address the subject equipment in a comprehensive fashion.

The current Federal energy conservation standards for air-cooled VRF multi-split systems with cooling capacity greater than or equal to 65,000 Btu/h and water-source VRF multi-split heat pumps are codified in DOE's regulations at 10 CFR 431.97. These standards are specified in terms of Energy Efficiency Ratio (EER) for cooling mode and Coefficient of Performance (COP) for heating mode based on the Federal test procedure at 10 CFR 431.96, which references American National Standards Institute (ANSI)/Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1230–2010, ''*2010 Standard for Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment,*'' approved August 2, 2010 and updated by Addendum 1 in March 2011 (ANSI/AHRI 1230–2010).

The current Federal energy conservation standards for air-cooled, three-phase VRF multi-split systems with cooling capacity less than 65,000 Btu/h are also codified in 10 CFR 431.97. These standards are specified in terms of Seasonal Energy Efficiency Ratio (SEER) for cooling mode and Heating Seasonal Performance Factor (HSPF) for heating mode based on the rating conditions in ANSI/AHRI 1230–2010. Although the current standards levels are based on the same test procedure as used for all other categories of VRF systems (*i.e.,* air-cooled VRF multi-split systems with cooling capacity greater than or equal to 65,000 Btu/h and water-source VRF multi-split systems), the organizations that maintain the industry consensus test procedures have recently updated their scope such that air-cooled, three-phase VRF multi-split systems with

[1] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

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

[3] In relevant part, subparagraph (B) specifies that: (1) In making a determination of economic justification, DOE must consider, to the maximum extent practicable, the benefits and burdens of an amended standard based on the seven criteria described in EPCA; (2) DOE may not prescribe any standard that increases the energy use or decreases the energy efficiency of a covered equipment; and (3) DOE may not prescribe an amended standard that interested persons have established by a preponderance of evidence is likely to result in the unavailability in the United States of any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States. (42 U.S.C. 6313(a)(6)(B)(ii)–(iii))

cooling capacity less than 65,000 Btu/h are now covered under AHRI 210/240–2023 instead of AHRI 1230–2021. Consequently, DOE is addressing test procedures for air-cooled, three-phase VRF multi-split systems with cooling capacity less than 65,000 Btu/h in a separate test procedure rulemaking for air-cooled, three-phase, small commercial package air conditioning and heating equipment with cooling capacity less than 65,000 Btu/h (86 FR 70316 (Dec. 9, 2021)) instead of in the test procedure rulemaking for VRF multi-split systems (86 FR 70644 (Dec. 10, 2021)). Accordingly, DOE is not evaluating the Federal energy conservation standards for such equipment in this notice and is instead addressing energy conservation standards for air-cooled, three-phase VRF multi-split systems with cooling capacity less than 65,000 Btu/h in a separate energy conservation standards rulemaking for air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 Btu/h.

The efficiency levels set forth in ASHRAE Standard 90.1–2016 for VRF multi-split systems with cooling capacity 65,000 Btu/h or greater are specified in terms of both EER and Integrated Energy Efficiency Ratio (IEER) for cooling mode and COP for heating mode. These efficiency levels are based on the rating conditions of ANSI/AHRI Standard 1230–2014 with addendum 1 (ANSI/AHRI 1230–2014), which are identical rating conditions to those found in AHRI 1230–2010. The EER levels found in ASHRAE 90.1–2016 are unchanged from the current Federal EER requirements; however, for certain classes of water-source VRF multi-split heat pumps, the COP levels specified in ASHRAE Standard 90.1–2016 are more stringent. See additional discussion in section II.B.2 of this document.

On April 11, 2018, DOE published in the **Federal Register** a Notice of Intent to establish a negotiated rulemaking working group (Working Group) under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to negotiate a proposed test procedure and amended energy conservation standards for VRF multi-split systems. 83 FR 15514. The Working Group reached consensus on an energy conservation standards term sheet (VRF ECS Term Sheet) on November 5, 2019, outlining recommended amended energy conservation standards for all equipment classes of VRF multi-split systems. The standard levels recommended by the Working Group in the VRF ECS Term Sheet are in terms of the IEER and COP metrics and equivalent to the levels specified in ASHRAE Standard 90.1–2016.[4] However, the levels recommended by the working group are measured according to an amended industry test standard for VRF multi-split systems[5]—AHRI Standard 1230, ''*2021 Standard for Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment*'' (AHRI 1230–2021). See additional discussion in section II.B.3 of this NOPR.

As described in detail in section III.A of this document, DOE conducted a crosswalk analysis during the ASRAC negotiation meetings to validate the translation of the EER levels currently required by the DOE standards to IEER, as well as the IEER efficiency levels as recommended by the Working Group. DOE notes that IEER is a more comprehensive metric because it reflects the energy efficiency across a range of operating conditions, as opposed to the efficiency at a single condition. The crosswalk translates the current Federal EER standards (measured per the current DOE test procedure) to IEER levels of equivalent stringency (measured per the September 20, 2019 draft version of the AHRI 1230 standard). As described in section II.B.3 of this document, the recommended 2019 draft test procedure was later published as AHRI 1230–2021, and no substantive changes were made that impact crosswalk results. Differences in the metrics and test procedures cause the crosswalk analysis to yield a range of IEER values corresponding to a given EER value. DOE's translation of the current EER levels to IEER according to the updated test procedure shows that each value recommended by the Working Group is within the range resulting from DOE's evaluation. Given that the metric takes into account a wider breadth of energy consumption across a variety of operating conditions, DOE has tentatively determined that the recommended IEER values are at least equivalent in stringency to the current EER values. Further, given that IEER is a more comprehensive metric, DOE has tentatively determined that the recommended IEER values would not decrease the minimum required energy efficiency of VRF basic models.

Because the updates in AHRI 1230–2021 do not affect the measurement of COP, no crosswalk was required to evaluate the stringency of the COP levels proposed in the VRF ECS Term Sheet as compared to the existing Federal COP levels.

In this document, DOE proposes to adopt the energy conservation standard levels and the equipment class structure from ASHRAE 90.1–2016 for air-cooled VRF multi-split systems with cooling capacity greater than or equal to 65,000 Btu/h and for all water-source VRF multi-split heat pumps. The proposed standards, which are expressed in terms of IEER and COP, are presented in Table I–1. These proposed standards, if adopted, would apply to all VRF multi-split systems listed in Table I–1 manufactured in, or imported into, the United States starting on January 1, 2024. The proposed standard levels are equivalent to the standard levels recommended by the Working Group in the VRF ECS Term Sheet. The proposed equipment class structure differs from the existing DOE equipment class structure regarding capacity break points and designations based on heating type; however, DOE has tentatively concluded that none of the changes to the equipment class structure for VRF multi-split systems would constitute backsliding—see section III.B of this document for additional discussion.

For the reasons described in section IV of this document, DOE has tentatively determined that the potential energy savings associated with adopting the ASHRAE 90.1–2016 standard levels for the triggered classes are *de minimis.* Also, as described in section V of this document, DOE has tentatively determined that insufficient data are available to determine, based on clear and convincing evidence, that more-stringent standards would result in significant additional energy savings and be technologically feasible and economically justified. As such DOE has not conducted further analysis of more-stringent standard levels for this rulemaking. Consequently, DOE is proposing to adopt the levels specified in ASHRAE Standard 90.1–2016, as required by EPCA.

[4] The VRF ECS Term Sheet can be accessed at *www.regulations.gov/document/EERE-2018-BT-STD-0003-0055.*

[5] The VRF ASRAC Working Group recommended a 2019 draft version of AHRI 1230 with additional recommendations for further development of the test standard outside of the Working Group. The 2019 draft of AHRI 1230 was later released as AHRI 1230–2021, which included the Working Group's recommendations.

TABLE I–1 PROPOSED ENERGY CONSERVATION STANDARDS FOR VRF MULTI-SPLIT SYSTEMS

Equipment type	Size category	Heating type	Minimum efficiency
VRF Multi-Split Air Conditioners (Air-Cooled)	≥65,000 and <135,000 Btu/h	All	15.5 IEER.
	≥135,000 and <240,000 Btu/h	All	14.9 IEER.
	≥240,000 Btu/h and <760,000 Btu/h	All	13.9 IEER.
VRF Multi-Split Heat Pumps (Air-Cooled)	≥65,000 and <135,000 Btu/h	Heat Pump without Heat Recovery	14.6 IEER, 3.3 COP.
		Heat Pump with Heat Recovery	14.4 IEER, 3.3 COP.
	≥135,000 and <240,000 Btu/h	Heat Pump without Heat Recovery	13.9 IEER, 3.2 COP.
		Heat Pump with Heat Recovery	13.7 IEER, 3.2 COP.
	≥240,000 Btu/h and <760,000 btu/h	Heat Pump without Heat Recovery	12.7 IEER, 3.2 COP.
		Heat Pump with Heat Recovery	12.5 IEER, 3.2 COP.
VRF Multi-Split Heat Pumps (Water-Source)	<65,000 Btu/h	Heat Pump without Heat Recovery	16.0 IEER, 4.3 COP.
		Heat Pump with Heat Recovery	15.8 IEER, 4.3 COP.
	≥65,000 and <135,000 Btu/h	Heat Pump without Heat Recovery	16.0 IEER, 4.3 COP.
		Heat Pump with Heat Recovery	15.8 IEER, 4.3 COP.
	≥135,000 and <240,000 Btu/h	Heat Pump without Heat Recovery	14.0 IEER, 4.0 COP.
		Heat Pump with Heat Recovery	13.8 IEER, 4.0 COP.
	≥240,000 Btu/h and <760,000 Btu/h	Heat Pump without Heat Recovery	12.0 IEER, 3.9 COP.
		Heat Pump with Heat Recovery	11.8 IEER, 3.9 COP.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed rule, as well as some of the relevant historical background related to the establishment of standards for VRF multi-split systems.

A. Authority

EPCA, among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified) added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This covered equipment includes small, large, and very large commercial package air conditioning and heating equipment, which includes the VRF multi-split systems that are the subject of this document. (42 U.S.C. 6311(1)(B)–(D)) Additionally, as discussed in further detail subsequently, the statute requires DOE to consider amending the energy efficiency standards for certain types of commercial and industrial equipment, including the equipment at issue in this document, whenever ASHRAE amends the efficiency levels or design requirements prescribed in ASHRAE Standard 90.1, and even in the absence of an ASHRAE trigger event, a separate provision of EPCA requires DOE to consider amended standards for such equipment, at a minimum, every six 6 years. (42 U.S.C. 6313(a)(6)(A)–(C))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6316(b)(2)(D))

Subject to certain statutory criteria and conditions, DOE is required to develop test procedures that are reasonably designed to produce test results which measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment during a representative average use cycle and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) Manufacturers of covered equipment must use the Federal test procedures as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE uses these test procedures to determine whether the equipment complies with the relevant energy conservation standards promulgated under EPCA. The DOE test procedures for VRF multi-split systems appear at 10 CFR part 431, subpart F.

ASHRAE Standard 90.1 sets industry energy efficiency levels for small, large, and very large commercial package air-conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks (collectively referred to as ''ASHRAE equipment''). For each type of listed covered equipment, EPCA directs that if ASHRAE amends ASHRAE Standard 90.1 with respect to the standard levels or design requirements applicable under that standard, DOE must adopt amended standards at the new ASHRAE efficiency levels, unless DOE determines, supported by clear and convincing evidence, that adoption of a more-stringent level would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A))

Although EPCA does not explicitly define the term ''amended'' in the context of what type of revision to ASHRAE Standard 90.1 would trigger DOE's obligation, DOE's longstanding interpretation has been that the statutory trigger is an amendment to the standard applicable to that equipment under ASHRAE Standard 90.1 that increases the energy efficiency level for that equipment. *See* 72 FR 10038, 10042 (March 7, 2007). If the revised ASHRAE Standard 90.1 leaves the energy efficiency level unchanged (or lowers the energy efficiency level), as compared to the energy efficiency level specified by the uniform national standard adopted pursuant to EPCA, regardless of the other amendments made to the ASHRAE Standard 90.1 requirement (*e.g.,* the inclusion of an additional metric), DOE has stated that it does not have the authority to conduct

a rulemaking to consider a higher standard for that equipment pursuant to 42 U.S.C. 6313(a)(6)(A). *See* 74 FR 36312, 36313 (July 22, 2009) and 77 FR 28928, 28937 (May 16, 2012). If an amendment to ASHRAE Standard 90.1 changes the metric for the standard on which the Federal requirement was based, DOE would perform a crosswalk analysis to determine whether the amended metric under ASHRAE Standard 90.1 resulted in an energy efficiency level that was more stringent than the current DOE standard.

Under EPCA, DOE must also review its energy conservation standards for VRF multi-split systems every six years and either: (1) Issue a notice of determination that the standards do not need to be amended, as adoption of a more-stringent level under the relevant statutory criteria is not supported by clear and convincing evidence; or (2) issue a notice of proposed rulemaking including new proposed standards based on certain criteria and procedures in subparagraph (B).[6] (42 U.S.C. 6313(a)(6)(C)(i))

In deciding whether a more-stringent standard is economically justified, under either the provisions of 42 U.S.C. 6313(a)(6)(A) or 42 U.S.C. 6313(a)(6)(C), DOE must determine whether the benefits of the standard exceed its burdens. DOE must make this determination after receiving comments on the proposed standard, and by considering, to the maximum extent practicable, the following seven factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6313(a)(6)(B)(i)(I)–(VII))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6313(a)(6)(B)(iii)(I)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6313(a)(6)(B)(iii)(II)(aa))

B. Background

1. Current Standards

EPCA defines ''commercial package air conditioning and heating equipment'' as air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application. (42 U.S.C. 6311(8)(A); 10 CFR 431.92) EPCA further classifies ''commercial package air conditioning and heating equipment'' into categories based on cooling capacity (*i.e.,* small, large, and very large categories). (42 U.S.C. 6311(8)(B)–(D); 10 CFR 431.92) ''Small commercial package air conditioning and heating equipment'' means equipment rated below 135,000 Btu per hour (cooling capacity). (42 U.S.C. 6311(8)(B); 10 CFR 431.92) ''Large commercial package air conditioning and heating equipment'' means equipment rated: (i) At or above 135,000 Btu per hour; and (ii) below 240,000 Btu per hour (cooling capacity). (42 U.S.C. 6311(8)(C); 10 CFR 431.92) ''Very large commercial package air conditioning and heating equipment'' means equipment rated: (i) At or above 240,000 Btu per hour; and (ii) below 760,000 Btu per hour (cooling capacity). (42 U.S.C. 6311(8)(D); 10 CFR 431.92)

Pursuant to its authority under EPCA (42 U.S.C. 6313(a)(6)(A)) and in response to updates to ASHRAE Standard 90.1, DOE has established the category of VRF multi-split systems, which meets the EPCA definition of ''commercial package air conditioning and heating equipment,'' but which EPCA did not expressly identify. *See* 10 CFR 431.92 and 10 CFR 431.97.

DOE defines ''variable refrigerant flow air conditioner'' as a unit of commercial package air-conditioning and heating equipment that is configured as a split system air conditioner incorporating a single refrigerant circuit, with one or more outdoor units, at least one variable-speed compressor or an alternate compressor combination for varying the capacity of the system by three or more steps, and multiple indoor fan coil units, each of which is individually metered and individually controlled by an integral control device and common communications network and which can operate independently in response to multiple indoor thermostats. Variable refrigerant flow implies three or more steps of capacity control on common, inter-connecting piping. 10 CFR 431.92.

DOE defines ''variable refrigerant flow multi-split heat pump'' as a unit of commercial package air-conditioning and heating equipment that is configured as a split system heat pump that uses reverse cycle refrigeration as its primary heating source and which may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas. The equipment incorporates a single refrigerant circuit, with one or more outdoor units, at least one variable-speed compressor or an alternate compressor combination for varying the capacity of the system by three or more steps, and multiple indoor fan coil units, each of which is individually metered and individually controlled by a control device and common communications network and which can operate independently in response to multiple indoor thermostats. Variable refrigerant flow implies three or more steps of capacity control on common, inter-connecting piping. 10 CFR 431.92.

DOE adopted energy conservation standards for VRF multi-split systems in a final rule published on May 16, 2012 (May 2012 Final Rule). 77 FR 28928, 28995. DOE's initial standards for VRF multi-split systems were prompted by ASHRAE's decision to include minimum efficiency levels for VRF multi-split systems for the first time in the 2010 edition of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2010). For four of the VRF water-source heat pump classes (including VRF water-source heat pumps with cooling capacity less than 17,000 Btu/h and VRF water-

[6] In relevant part, subparagraph (B) specifies that: (1) In making a determination of economic justification, DOE must consider, to the maximum extent practicable, the benefits and burdens of an amended standard based on the seven criteria described in EPCA; (2) DOE may not prescribe any standard that increases the energy use or decreases the energy efficiency of a covered equipment; and (3) DOE may not prescribe an amended standard that interested persons have established by a preponderance of evidence is likely to result in the unavailability in the United States of any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States. (42 U.S.C. 6313(a)(6)(B)(ii)–(iii))

source heat pumps with cooling capacity greater than or equal to 135,000 Btu/h and less than 760,000 Btu/h), DOE adopted the standard levels in ASHRAE Standard 90.1–2010, having determined that the updates to ASHRAE Standard 90.1–2010 either raised the energy efficiency levels above the existing Federal energy conservation standards or set standards for equipment for which DOE did not previously have standards. 77 FR 28928, 28938 (May 16, 2012). For all other equipment classes of VRF multi-split systems, DOE maintained the standards from the equipment class under which the corresponding VRF multi-split system equipment class was previously regulated (*i.e.,* air-cooled VRF multi-split systems had previously been covered as small, large, and very large air-cooled central air-conditioning heat pumps with electric resistance heating, while water-source VRF multi-split heat pumps had previously been covered as water-source heat pumps).

For the equipment addressed in this NOPR, DOE's current equipment classes for VRF multi-split systems are differentiated by refrigeration cycle (air conditioners or heat pumps), condenser heat rejection medium (air-cooled or water-source), cooling capacity, and heating type (for air-cooled: ''No heating or electric resistance heating'' or ''all other types of heating''; for water-source: ''Without heat recovery,'' ''with heat recovery,'' or ''all''). DOE's current standards for VRF multi-split systems are set forth at Table 13 to 10 CFR 431.97 and repeated in Table II–1 of this document.

TABLE II–1—CURRENT DOE STANDARDS FOR VRF MULTI-SPLIT SYSTEMS

Equipment type	Cooling capacity	Heating type [1]	Efficiency level	Compliance date: Products manufactured on and after . . .
VRF Multi-Split Air Conditioners (Air-Cooled).	<65,000 Btu/h	All	13.0 SEER	June 16, 2008.
	≥65,000 Btu/h and <135,000 Btu/h	No Heating or Electric Resistance Heating.	11.2 EER	January 1, 2010.
		All Other Types of Heating	11.0 EER	January 1, 2010.
	≥135,000 Btu/h and <240,000 Btu/h	No Heating or Electric Resistance Heating.	11.0 EER	January 1, 2010.
		All Other Types of Heating	10.8 EER	January 1, 2010.
	≥240,000 Btu/h and <760,000 Btu/h	No Heating or Electric Resistance Heating.	10.0 EER	January 1, 2010.
		All Other Types of Heating	9.8 EER	January 1, 2010.
VRF Multi-Split Heat Pumps (Air-Cooled).	<65,000 Btu/h	All	13.0 SEER, 7.7 HSPF	June 16, 2008.
	≥65,000 Btu/h and <135,000 Btu/h	No Heating or Electric Resistance Heating.	11.0 EER, 3.3 COP	January 1, 2010.
		All Other Types of Heating	10.8 EER, 3.3 COP	January 1, 2010.
	≥135,000 Btu/h and <240,000 Btu/h	No Heating or Electric Resistance Heating.	10.6 EER, 3.2 COP	January 1, 2010.
		All Other Types of Heating	10.4 EER, 3.2 COP	January 1, 2010.
	≥240,000 Btu/h and <760,000 Btu/h	No Heating or Electric Resistance Heating.	9.5 EER, 3.2 COP	January 1, 2010.
		All Other Types of Heating	9.3 EER, 3.2 COP	January 1, 2010.
VRF Multi-Split Heat Pumps (Water-Source).	<17,000 Btu/h	Without heat recovery	12.0 EER 4.2 COP	October 29, 2012. October 29, 2003.
		With heat recovery	11.8 EER 4.2 COP	October 29, 2012. October 29, 2003.
	≥17,000 Btu/h and <65,000 Btu/h	All	12.0 EER, 4.2 COP	October 29, 2003.
	≥65,000 Btu/h and <135,000 Btu/h	All	12.0 EER, 4.2 COP	October 29, 2003.
	≥135,000 Btu/h and <760,000 Btu/h	Without heat recovery	10.0 EER, 3.9 COP	October 29, 2013.
		With heat recovery	9.8 EER, 3.9 COP	October 29, 2013.

[1] VRF Multi-Split Heat Pumps (Air-Cooled) with heat recovery fall under the category of ''All Other Types of Heating'' unless they also have electric resistance heating, in which case it falls under the category for ''No Heating or Electric Resistance Heating.''

2. ASHRAE Standard 90.1–2016

ASHRAE released the 2016 version of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2016) on October 26, 2016, which increased the heating mode efficiency level (in terms of COP) for six of the current DOE VRF multi-split system equipment classes:

(1) VRF Multi-Split Heat Pumps, Water-source <17,000 Btu/h, Without Heat Recovery;

(2) VRF Multi-Split Heat Pumps, Water-source <17,000 Btu/h, With Heat Recovery;

(3) VRF Multi-Split Heat Pumps, Water-source ≥17,000 Btu/h and <65,000 Btu/h;

(4) VRF Multi-Split Heat Pumps. Water-source ≥65,000 Btu/h and <135,000 Btu/h;

(5) VRF Multi-Split Heat Pumps, Water-source ≥135,000 Btu/h and <760,000 Btu/h, Without Heat Recovery; and

(6) VRF Multi-Split Heat Pumps, Water-source ≥135,000 Btu/h and <760,000 Btu/h, With Heat Recovery.

ASHRAE Standard 90.1–2016 left unchanged the heating mode efficiency level for the remaining six DOE equipment classes of VRF multi-split heat pump systems with cooling capacity greater than or equal to 65,000 Btu/h and left unchanged the cooling mode efficiency levels in terms of EER for all DOE equipment classes.

DOE published a notice of data availability and request for information (NODA/RFI) in response to the amendments to ASHRAE Standard 90.1–2016 in the **Federal Register** on July 8, 2019 (July 2019 NODA/RFI). 84 FR 32328. In the July 2019 NODA/RFI, DOE compared the current Federal standards for VRF multi-split systems (in terms of EER and COP) to the levels in ASHRAE Standard 90.1–2016 and requested comment on its preliminary findings. 84 FR 32328, 32333–32334 (July 8, 2019). In addition to evaluating amended energy conservation standards for the six equipment classes triggered by the updated levels in ASHRAE Standard 90.1–2016, DOE also examined the other 14 equipment classes of VRF multi-split systems under its 6-year lookback authority (42 U.S.C. 6313(a)(6)(C)) and solicited data from stakeholders. 84 FR 32328, 32334 (July 8, 2019). DOE received comments in response to the July 2019 NODA/RFI

from the interested parties listed in Table II–2.

TABLE II–2—JULY 2019 NODA/RFI WRITTEN COMMENTS

Commenter(s)	Reference in this NOPR	Commenter type
California Investor-Owned Utilities	CA IOUs	Utilities.
Air-Conditioning, Heating, & Refrigeration Institute	AHRI	Trade Association.
Hydronic Industry Alliance—Commercial	HIA—C	Trade Association.
Institute for Policy Integrity at NYU School of Law	Policy Integrity	Academic Institution.

DOE discusses comments received in response to the July 2019 NODA/RFI in the following sections of this document. A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[7]

On October 24, 2019, ASHRAE officially released for distribution and made public ASHRAE Standard 90.1–2019. ASHRAE Standard 90.1–2019 maintained the equipment class structure for VRF multi-split systems from ASHRAE Standard 90.1–2016 and did not update efficiency levels for any VRF equipment classes.

3. ASRAC Negotiations

On April 11, 2018, DOE published in the **Federal Register** a notice of its intent to establish a negotiated rulemaking working group (Working Group) under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC), in accordance with the Federal Advisory Committee Act[8] and the Negotiated Rulemaking Act,[9] to negotiate an amended test procedure and amended energy conservation standards for VRF multi-split systems. 83 FR 15514. The purpose of the Working Group was to discuss and, if possible, reach consensus on a proposed rule regarding the test procedure and energy conservation standards for VRF multi-split systems, as authorized by EPCA. *Id.* The Working Group comprised 21 voting members including manufacturers, energy efficiency advocates, utilities, and trade organizations.[10]

On October 1, 2019, the Working Group reached consensus on a test procedure term sheet (VRF TP Term Sheet; Docket No. EERE–2018–BT–STD–0003–0044) that includes several recommendations. The following list includes the most substantial recommendations:

(1) VRF multi-split systems should be rated with the Integrated Energy Efficiency Ratio (IEER) metric to allow consumers to make consistent comparisons with other equipment using the IEER metric (*e.g.,* rooftop air conditioner ratings).

(2) Use of the amended test procedure should not be required until the compliance date of amended energy conservation standards.

(3) The Federal test procedure for VRF multi-split systems should be consistent with the September 20, 2019 draft version of AHRI 1230, with additional recommended amendments to be implemented after the conclusion of ASRAC negotiations.

Following completion of the VRF TP Term Sheet, the Working Group proceeded to negotiate recommended revised energy conservation standards for VRF multi-split systems that accounted for the translation from the EER metric to the IEER metric, as well as the changes between the Federal test procedure that references AHRI 1230–2010 and the recommended 2019 draft test procedure AHRI 1230 (which was later published as AHRI 1230–2021). As described in greater detail in section III.A of this document, DOE conducted a crosswalk analysis to inform the development of standard levels for VRF multi-split systems in terms of the new test procedure and metric. DOE presented the results of its crosswalk analysis on November 5, 2019 (Docket No. EERE–2018–BT–STD–0003–0061 at p. 45), and subsequently, the Working Group reached consensus on an energy conservation standards term sheet (VRF ECS Term Sheet; Docket No. EERE–2018–BT–STD–0003–0055) recommending:

(1) Amendments to the Federal minimum efficiency standards for VRF multi-split systems (as presented in Table II–3 of this NOPR) and per the test procedure recommended in the VRF TP Term Sheet.

(2) The compliance date of the recommended energy conservation standards should be January 1, 2024 for all VRF multi-split system equipment classes included in this proposed rulemaking.

TABLE II–3—RECOMMENDED EFFICIENCY LEVELS FROM VRF ECS TERM SHEET

Equipment class	Energy efficiency levels recommended [1]
VRF Air Conditioners, Air-cooled, ≥65,000 Btu/h and <135,000 Btu/h	15.5 IEER.
VRF Air Conditioners, Air-cooled, ≥135,000 Btu/h and <240,000 Btu/h	14.9 IEER.
VRF Air Conditioners, Air-cooled, ≥240,000 Btu/h and <760,000 Btu/h	13.9 IEER.
VRF Heat Pumps, Air-cooled, ≥65,000 Btu/h and <135,000 Btu/h, No Heating or Electric Resistance Heating	14.6 IEER, 3.3 COP.
VRF Heat Pumps, Air-cooled, ≥65,000 Btu/h and <135,000 Btu/h, All Other Types of Heating	14.4 IEER, 3.3 COP.
VRF Heat Pumps, Air-cooled, ≥135,000 Btu/h and <240,000 Btu/h, No Heating or Electric Resistance Heating	13.9 IEER, 3.2 COP.
VRF Heat Pumps, Air-cooled, ≥135,000 Btu/h and <240,000 Btu/h, All Other Types of Heating	13.7 IEER; 3.2 COP.
VRF Heat Pumps, Air-cooled, ≥240,000 Btu/h and <760,000 Btu/h, No Heating or Electric Resistance Heating	12.7 IEER, 3.2 COP.
VRF Heat Pumps, Air-cooled, ≥240,000 Btu/h and <760,000 Btu/h, All Other Types of Heating	12.5 IEER; 3.2 COP.
VRF Heat Pumps, Water-source, <17,000 Btu/h, Without Heat Recovery	16.0 IEER, 4.3 COP.

[7] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for VRF multi-split systems. (Docket No. EERE–2018–BT–STD–0003, which is maintained at *www.regulations.gov*). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

[8] 5 U.S.C. App. 2, Public Law 92–463.

[9] 5 U.S.C. 561–570, Public Law 101–648.

[10] A complete list of the ASRAC VRF Working Group members is available by clicking on the ''Working Group'' tab at: *www.energy.gov/eere/buildings/appliance-standards-and-rulemaking-federal-advisory-committee#Variable%20Refrigerant%20Flow%20Multi-Split%20Air%20Conditioners%20and%20Heat%20Pumps%20Working%20Group.*

TABLE II–3—RECOMMENDED EFFICIENCY LEVELS FROM VRF ECS TERM SHEET—Continued

Equipment class	Energy efficiency levels recommended [1]
VRF Heat Pumps, Water-source, <17,000 Btu/h, With Heat Recovery	15.8 IEER, 4.3 COP.
VRF Heat Pumps, Water-source, ≥17,000 Btu/h and <65,000 Btu/h, Without Heat Recovery	16.0 IEER, 4.3 COP.
VRF Heat Pumps, Water-source, ≥17,000 Btu/h and <65,000 Btu/h, With Heat Recovery	15.8 IEER, 4.3 COP.
VRF Heat Pumps, Water-source, ≥65,000 Btu/h and <135,000 Btu/h, Without Heat Recovery	16.0 IEER, 4.3 COP.
VRF Heat Pumps, Water-source, ≥65,000 Btu/h and <135,000 Btu/h, With Heat Recovery	15.8 IEER, 4.3 COP.
VRF Heat Pumps, Water-source, ≥135,000 Btu/h and <240,000 Btu/h, Without Heat Recovery	14.0 IEER, 4.0 COP.
VRF Heat Pumps, Water-source, ≥135,000 Btu/h and <240,000 Btu/h, With Heat Recovery	13.8 IEER, 4.0 COP.
VRF Heat Pumps, Water-source, ≥240,000 Btu/h and <760,000 Btu/h, Without Heat Recovery	12.0 IEER, 3.9 COP.
VRF Heat Pumps, Water-source, ≥240,000 Btu/h and <760,000 Btu/h, With Heat Recovery	11.8 IEER, 3.9 COP.

[1] The VRF ECS Term Sheet includes the notation "COP_H" which indicates coefficient of performance in heating mode at 47 °F outdoor ambient temperature (for air-cooled VRF multi-split heat pumps) and at 68 °F entering water temperature (for water-source VRF multi-split heat pumps).

DOE notes that there are minor differences in equipment class structure (related to cooling capacity, supplementary heating type, and presence of heat recovery) between the VRF ECS Term Sheet, ASHRAE Standard 90.1–2019, and the current Federal energy conservation standards for VRF multi-split systems. This topic is discussed in greater detail in section III.B of this document.

On May 18, 2021, AHRI published an updated industry test standard for VRF multi-split systems AHRI 1230–2021. Subsequently, on December 10, 2021, DOE published in the **Federal Register** the VRF TP NOPR (December 2021 VRF TP NOPR), in which DOE proposed an amended test procedure for VRF multi-split systems that incorporates by reference AHRI 1230–2021 and proposed to adopt IEER as the test metric for VRF multi-split systems. 86 FR 70644, 70652. In the December 2021 VRF TP NOPR, DOE tentatively determined that the proposed amendments to the test procedure, if made final, would alter the measured efficiency of VRF multi-split systems, as compared to ratings using the current Federal regulated metric, EER (*see* 10 CFR 431.97). In that document, DOE stated that were the proposed test procedure to be made final (*i.e.,* were DOE to adopt IEER as the metric for VRF multi-split systems), testing pursuant to the amended test procedure would not be required until such time as manufacturers were required to comply with amended energy conservation standards that are denominated in terms of IEER, should such standards be adopted. 86 FR 70644, 70652 (Dec. 10, 2021).

III. General Discussion

A. Methodology for Efficiency Crosswalk Analysis

1. Crosswalk Background and Overview

Consistent with the recommendation of the Working Group, DOE is proposing to amend the energy conservation standards for VRF multi-split systems to rely on the IEER metric for cooling efficiency. DOE is not proposing to amend the metric for heating efficiency (*i.e.,* COP). The Department has tentatively concluded that a change of metrics would be beneficial for a number of reasons. The current Federal metric for cooling efficiency, EER, captures the system performance at a single, full-load operating point (*i.e.,* single outdoor air temperatures for air-cooled systems and single entering water temperatures for water-source systems). EER does not provide a seasonal or load-weighted measure of energy efficiency. In contrast, the IEER metric factors in the efficiency of operating at full-load conditions as well as part-load conditions of 75-percent, 50-percent, and 25-percent of full-load capacity. Under part-load conditions, air conditioning and heating equipment may cycle off/on or may modulate down the capacity in order to match the imposed load. DOE has tentatively determined that the IEER metric provides a more representative measure of field performance of VRF multi-split systems by weighting the full-load and part-load efficiencies by the average amount of time equipment spends operating at each load.

As stated, EPCA prohibits DOE from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6313(a)(6)(B)(iii)(I)); commonly referred to as EPCA's ''anti-backsliding provision'') In consideration of the IEER metric and to ensure any potential amendment would not violate EPCA's ''anti-backsliding'' provision, DOE conducted a crosswalk analysis to validate the translation of the EER levels currently required by the DOE standards to IEER, as well as the IEER efficiency levels as recommended by the Working Group. The crosswalk analysis translates the current Federal EER standards (measured per the current DOE test procedure) to IEER levels of equivalent stringency (measured per the updated AHRI Standard 1230). (Docket No. EERE–2018–BT–STD–0003–0056).

The proposed energy conservation standards presented in this document were developed based on an update to the relevant industry test standard (*i.e.,* the 2019 draft test procedure AHRI 1230 that was finalized as ASHRAE 1230–2021). Compared to the current Federal test procedure (which references ANSI/AHRI 1230–2010), AHRI 1230–2021 included two substantive changes that impact the translation of standards in EER to standards using IEER. Specifically, DOE considered in its crosswalk analysis in addition to the metric change from EER to IEER:

(1) Maximum sensible heat ratio (SHR) limits of 0.82 and 0.85 were added for full-load and 75-percent, part-load conditions, respectively. SHR represents the ratio of sensible cooling capacity (*i.e.,* the ability to change the temperature of indoor air) to the total cooling capacity, which also includes latent cooling capacity (*i.e.,* the ability to remove moisture from indoor air). For example, an SHR of 0.80 indicates that 80 percent of the capacity of a system reduces the temperature of the air and the remaining 20 percent dehumidifies the air.

(2) A controls verification procedure (CVP) was added that verifies that the values provided by manufacturers in the supplemental test instruction (STI) for setting critical parameters during steady-state testing are within the range of critical parameters that would be

used by the system's native controls at the same conditions.

On November 5, 2019, DOE presented its crosswalk findings to the Working Group to inform the development of recommended standards levels for VRF multi-split systems in terms of the new test procedure and cooling metric. (Docket No. EERE–2018–BT–STD–0003–0056). To validate the relative equivalency of the IEER standard levels as recommended by the Working Group and the current Federal EER standards, DOE analyzed a minimally-compliant model from a high-sales-volume equipment class (with a current Federal standard of 10.6 EER) to ensure that translation of the current EER standards to the recommended IEER values would not decrease the minimum required energy efficiency of VRF multi-split systems. As discussed, because of the change in metric and changes in the test procedure, DOE cannot translate the current EER to a single IEER value (further discussed in section III.A.3 of this NOPR). DOE identified the resulting crosswalked efficiency of the minimally-compliant model from the selected class ranged from 13 to 16 IEER.

DOE also presented to the Working Group anonymized and aggregated data provided by VRF multi-split system manufacturers. These data showed a preliminary translation of ratings to the IEER metric in terms of the updated test procedure for a collection of VRF multi-split systems spanning four equipment classes. The sample data were mostly composed of systems above the current Federal baseline efficiency levels in terms of EER and, thus, were not instructive as to a crosswalk of minimum energy efficiency levels. (Docket No. EERE–2018–BT–STD–0003–0056). The IEER efficiency level specified in the VRF ECS Term Sheet for the selected class was 13.9 IEER, which was within the range of crosswalked results.

Given that translating the current EER levels to IEER according to the updated test procedure does not provide for a single point answer (as would thereby allow for a direct comparison), DOE believes it is reasonable to ensure that the recommended value lies within the range resulting from DOE's evaluation as a proxy for understanding whether there is a potential for backsliding. Consequently, DOE has tentatively determined that the recommended IEER levels are at least equivalent in stringency to the current EER levels. Further, given that IEER is a more comprehensive metric (reflecting energy efficiency across a range of operating conditions, as opposed to the efficiency at a single condition), DOE has tentatively determined that the recommended IEER levels would not decrease the minimum required energy efficiency of a VRF multi-split system.

2. Crosswalk Details

In its analysis to crosswalk the current DOE energy conservation standards for VRF cooling efficiency, DOE sought to account for the translation from EER to IEER, as well as changes in the updated industry test standard—namely the addition of SHR limits and the introduction of the CVP. Because these three factors have interacting effects on the measured cooling performance of VRF multi-split systems, DOE modeled their interaction holistically and did not examine incremental changes in performance due to any one factor.

As discussed, DOE is not proposing to change the heating efficiency metric (*i.e.,* COP), because both ASHRAE 90.1–2016 and the Working Group VRF ECS Term Sheet define heating mode efficiency in terms of COP. Additionally, the changes to the test procedure for VRF multi-split systems did not impact measured efficiency in heating mode. Therefore, DOE did not conduct a crosswalk analysis for VRF heating mode efficiency.

The following paragraphs describe DOE's crosswalk methodology to translate the current cooling efficiency standards for VRF multi-split systems that rely on the EER metric to standards using IEER that are of equivalent efficiency. DOE also identifies the various factors that limit the ability to strictly translate standards that rely on EER to standards that standards that rely on IEER.

In order to develop a crosswalk approach that is applicable to all equipment classes of VRF multi-split systems, DOE analyzed a basic model representative of equipment classes with high sales volume.[11] Specifically, DOE selected an air-cooled VRF multi-split heat pump system in the cooling capacity range greater than 135,000 Btu/h and less than or equal to 240,000 Btu/h without heat recovery. The selected basic model had an EER rating within 0.2 points of the Federal standard for the applicable equipment class (*i.e.,* a 10.8 rating vs 10.6 EER minimum required), and 0.4 points above the Federal standard for the corresponding equipment class equipped with heat recovery (*i.e.,* a 10.8 rating vs 10.4 EER minimum required).

In support of the Working Group DOE, along with several manufacturers, DOE conducted investigative testing on VRF multi-split systems operating under native controls. Included in this testing was the basic model selected to serve as the basis for the crosswalk analysis. DOE created a performance model using VapCyc and CoilDesigner software[12] to evaluate capacity and efficiency of the selected system per the updated industry test standard. DOE first modeled the system's behavior at the full-load cooling condition by selecting compressor speed, outdoor fan speed, indoor airflow rate, and superheat condition to match information that was available in STI and provided confidentially by the manufacturer to DOE contractors under a nondisclosure agreement (NDA). DOE then calibrated the system as modeled in VapCyc and CoilDesigner so that the predicted capacity and EER matched the rated capacity and efficiency for the system (at full-load conditions) as certified by the manufacturer. Specifically, in its investigative testing, DOE observed typical control strategies for unloading at part-load conditions, including turning individual indoor units off, modulating compressor and fan speeds, and increasing evaporating temperature. DOE also observed patterns in which compressor speed and outdoor fan speed tended to scale together at reduced load conditions. DOE used this information to adjust the model so as to project the performance of the selected VRF multi-split system at partial loads by decreasing the operating state of components according to load level.

As discussed, the capacity and EER rating for the basic model used in DOE's analysis were measured according to the current DOE test procedure, but DOE is seeking to translate the current EER standards to equivalent IEER standards when tested according to the updated industry test standard. As such, DOE also considered in its crosswalk analysis the maximum SHR limits that were added in the industry test procedure AHRI 1230–2021. By establishing upper limits on SHR, DOE understands AHRI 1230–2021 to create test conditions that

[11] According to a report from Cadeo group, air-cooled VRF multi-split heat pump systems in the cooling capacity range greater than 135,000 Btu/h and less than or equal to 240,000 Btu/h without heat recovery account for 12.4 percent of the VRF multi-split system market. Air-cooled VRF multi-split systems in the same capacity range equipped with heat recovery account for an additional 32.6 percent of the VRF multi-split system market. (EERE–2017–BT–TP–0018–0002).

[12] VapCyc and CoilDesigner are HVAC energy modeling software programs. CoilDesigner is a detailed heat exchanger modeling program. VapCyc integrates CoilDesigner heat exchanger simulations with compressor and expansion models to complete a refrigeration cycle model to simulate performance of an air conditioning or heat pump system at specific operating conditions. Available at: *www.optimizedthermalsystems.com.*

are more representative of field applications for VRF multi-split systems, as compared to the current DOE test procedure. AHRI 1230–2021 sets SHR limits of 0.82 and 0.85 at the full-load cooling condition and the 75-percent part-load cooling condition, respectively, but does not include SHR limits for the 50-percent or 25-percent part-load cooling conditions. AHRI 1230–2021 also establishes a calculation method for the efficiency rating reduction for systems that exceed the SHR limits at the full-load and/or 75-percent part-load cooling conditions in the IEER test.

Because manufacturers do not currently certify or publicize any information about SHR at the full-load EER test condition, DOE was unable to precisely determine SHR values representative of a baseline EER VRF multi-split system. Also, because the current DOE test procedure does not include any part-load cooling test points, no information was available about SHR values that VRF multi-split systems would produce at the 75-percent part-load IEER test condition. Because SHR data was not publicly available, DOE instead examined data from its investigative testing to identify the typical range of SHR values for VRF multi-split systems when operating under native controls at the full-load and 75-percent part-load conditions. DOE observed several cases of basic models with native controls test data indicating SHR values above the AHRI 1230–2021 limits at the full-load and 75-percent part-load condition, and also observed some basic models testing below the SHR limits. The precision of the crosswalk from existing EER levels to IEER levels in terms of the updated industry test standard was limited by the lack of available data about representative SHR values at the full-load EER test condition and by the variation in SHR values observed in the native controls test data.

To account for the effect of the SHR limits in the updated industry test standard in its crosswalk analysis, DOE relied on the native controls test data to establish a range of potential initial SHR values observed at the full-load and 75-percent part-load IEER test conditions. DOE then adapted the VapCyc and CoilDesigner performance model to examine the effect of changing indoor airflow and evaporating temperature on SHR and the associated impacts on energy efficiency. Reducing the evaporating temperature increased the rate of dehumidification (thus reducing SHR), but also required more power input from the compressor, which reduced the measured efficiency. DOE also observed that at reduced airflow rates, the dehumidification capacity was higher, but the overall system capacity and efficiency were lower.

Ultimately, the crosswalked IEER values varied depending on modeling input assumptions, such as whether the initial SHR was below or above the new SHR limits (and by how much), as well as the different control strategies employed to reduce SHR. The crosswalked IEER values also depended on overlapping input assumptions related to the EER-to-IEER translation, such as the number of thermally-active indoor units at part-load conditions. Reducing the number of indoor units at partial loads (while keeping all else constant) increased the amount of refrigerant flow to each remaining indoor fan coil, which provided better dehumidification performance and, thus, reduced SHR at the 75-percent load condition.

As discussed, the updates in AHRI 1230–2021 include a CVP for verifying that the certified operational settings for critical parameters are representative of values that would be observed with the VRF multi-split system operating under its own native controls. As described in AHRI 1230–2021, critical parameters include compressor speed(s), outdoor fan speed(s) and outdoor variable valve position(s). As proposed in the December 2021 VRF TP NOPR, manufacturers would specify operational settings for each of these components in their STI to implement during steady-state tests for IEER and COP. 86 FR 70644, 70666 (Dec. 10, 2021). The CVP is not a part of rating tests for IEER, but rather, it serves as a validation method for cooling mode only.

DOE's ability to fully account for the potential changes to the measured performance of VRF multi-split systems as a result of the CVP was limited by the lack of available information regarding the control strategies employed by VRF system manufacturers—particularly at part-load conditions where manufacturers do not currently certify or make public any information about control settings. DOE was also limited by uncertainty about how these control strategies may change or how manufacturers may certify their critical parameter settings in response to the CVP.

As discussed, the CVP is intended to validate that the certified operational settings (*i.e.,* those used during IEER testing) for critical parameters are representative of controls behavior exhibited under the system's own controls at the same conditions. DOE used information about the ranges of operational settings observed during native controls testing to represent a future system that would pass the CVP (*i.e.,* a system for which the certified critical parameter settings would be validated by a CVP conducted with the system operating under native controls). Specifically, DOE selected inputs used in its VapCyc and CoilDesigner performance model for simulating IEER that were consistent with native controls testing observations, including the number of thermally-active indoor units at part-load conditions, compressor and fan speeds, expansion valve control strategy, and other refrigeration cycle parameters. DOE tentatively concluded that modelling IEER results using control settings observed during native controls testing was the most accurate approach for estimating how manufacturers would certify critical parameter control settings as part of testing to IEER as measured by AHRI 1230–2021.

3. Crosswalk Results

As discussed, DOE conducted its crosswalk analysis on a high-sales-volume equipment class of VRF multi-split systems and selected a representative model with EER near the Federal baseline level (10.8 EER vs 10.6 EER baseline) in developing its VapCyc and CoilDesigner performance model. Based on the modeling conducted, the expected performance of the selected equipment class of VRF multi-split systems when tested according to AHRI 1230–2021 would be in the range of 13 to 16 IEER. Because of the wider range of operation conditions captured in IEER as well as the various strategies that manufacturers may employ to respond to the test procedure changes, a single EER baseline value inherently translates to a range of IEER values.

As discussed, the IEER metric captures performance at additional part-load operating conditions not considered by the EER metric; therefore, a single EER value translates to a range of potential IEER values.[13] IEER captures the impacts of design features and control strategies that may not affect full-load operation but do affect part-load operation. For example, VRF multi-split systems may use different strategies for reducing capacity at part loads like reducing the number of thermally active indoor units or slowing compressor speeds, which may result in differential impacts on measured IEER, but which would not have any impact

[13] In a January 2016 energy conservation standards direct final rule for ACUACs, DOE discussed a metric translation from EER to IEER in which a single EER level corresponds to a range of IEERs. 81 FR 2420, 2452 (Jan. 15, 2016).

on the measured full-load performance EER. DOE also recognizes that there are a variety of paths that manufacturers may take to account for the new test procedure, and that the crosswalk analysis approximates how manufacturers in the aggregate may respond to test procedure changes. For example, some manufacturers may elect to meet the new SHR limitations by reducing evaporating temperatures, while other manufacturers may meet the new SHR limitations by reducing indoor airflow and decreasing the number of thermally-active indoor units. Each strategy may have different tradeoffs in terms of overall system performance and measured energy efficiency.

As described in section II.B.3 of this document, the Working Group recommended efficiency levels for VRF multi-split systems that align with the efficiency levels specified in ASHRAE 90.1–2016 in terms of IEER and COP. While DOE's crosswalk analysis showed that a single EER baseline could result in a range of IEER values (as discussed, due to the wider range of operation conditions captured in IEER, as well as the various strategies that manufacturers may employ to respond to the test procedure changes), the IEER levels included in the VRF ECS Term Sheet (which the Working Group recommended as an appropriate crosswalk of current Federal EER standards) are within the range of DOE's crosswalked results. As explained previously, DOE has tentatively determined that the recommended IEER levels are at least equivalent in stringency to the current EER levels. Further, given that IEER is a more comprehensive metric (reflecting energy efficiency across a range of operating conditions, as opposed to the efficiency at a single condition), DOE has tentatively determined that the recommended IEER levels would not decrease the minimum required energy efficiency of a VRF multi-split system, thereby avoiding statutorily impermissible backsliding with respect to the current Federal standards in terms of EER. DOE has also tentatively determined that no changes to heating mode ratings in terms of COP are expected from the changes to the test procedure for VRF multi-split systems included in AHRI 1230–2021.

Issue 1: DOE requests comment on its crosswalk analysis methodology and crosswalk results.

B. Equipment Class Structure for VRF

In the July 2019 NODA/RFI, DOE discussed two areas where the equipment class structure for VRF multi-split systems differs between ASHRAE Standard 90.1 and the Federal standards. 84 FR 32328, 32334 (July 8, 2019). First, DOE noted that in ASHRAE Standard 90.1–2016 (as in previous versions of ASHRAE Standard 90.1), two water-source VRF multi-split heat pump equipment classes (greater than or equal to 17,000 Btu/h and less than 65,000 Btu/h; and greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h) are disaggregated into equipment with heat recovery and equipment without heat recovery, with each ASHRAE equipment class having a separate minimum cooling efficiency. The current Federal standards do not disaggregate water-source VRF multi-split heat pumps in these capacity ranges based on the presence of heat recovery. (*See* Table 13 to 10 CFR 431.97.) However, as DOE pointed out in the NODA/RFI, the cooling efficiency EER standard in ASHRAE Standard 90.1–2016 for these units with heat recovery is below the current Federal standard. Consequently, under EPCA, the Secretary cannot prescribe those levels due to anti-backsliding concerns, so those classes were not subdivided further. *Id.*

Second, DOE identified that ASHRAE Standard 90.1–2016 disaggregates and sets distinct standards for VRF water-source heat pumps by cooling capacity above and below 240,000 Btu/h (*i.e.,* separate equipment classes with cooling capacities greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h and greater than or equal to 240,000 Btu/h and less than 760,000 Btu/h). The DOE standards provide for VRF water-source heat pumps with a cooling capacity of greater than or equal to 135,000 Btu/h and less than 760,000 Btu/h. (*See* table 13 to 10 CFR 431.97.) DOE sought feedback from stakeholders on whether to consider additional equipment classes for VRF water-source heat pumps between 135,000 and 760,000 Btu/h, which would align with the ASHRAE 90.1–2016 structure for those classes of equipment. *Id.*

In response to the July 2019 NODA/RFI, AHRI and the CA IOUs both commented that DOE should align its equipment class structure for all classes of VRF multi-split systems with the equipment structure found in ASHRAE 90.1–2016 (*i.e.,* not just for the specific equipment classes on which DOE requested comment). (AHRI, No. 42 at p. 3; CA IOUs, No. 41 at p. 3) AHRI commented that aligning with ASHRAE 90.1 would reflect the structure of other VRF classes, such as air-cooled heat pumps and air conditioners. (AHRI, No. 42 at p. 3) The CA IOUs commented that aligning with the equipment structure in ASHRAE 90.1–2016 would provide additional clarity regarding which standards apply to heat pumps versus units with heat recovery. (CA IOUs, No. 41 at pp. 3–4) The CA IOUs further commented that for air-source VRF multi-split heat pumps, in order to be more easily understood by the market, DOE should align with the convention from ASHRAE Standard 90.1 by adding a new column titled ''subcategory'' that specifies ''heat pump'' or ''heat pump with heat recovery'' and should remove its existing designation of ''no heating or electric resistance heating'' and ''all other types of heating,'' which is terminology more applicable to commercial unitary air conditioners than to VRF multi-split systems. (CA IOUs, No. 41 at p. 3) The CA IOUs also recommended that DOE should follow ASHRAE regarding breaking out the 135,000 Btu/h to 760,000 Btu/h categorization into two size categories, and that DOE should eliminate the 17,000 Btu/h cutoff for water-source equipment so as to align with ASHRAE. *Id.*

As stated, EPCA generally directs DOE to establish amended uniform national standards for the VRF multi-split systems at the minimum levels specified in ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(A)(ii)(I)) Consistent with EPCA, and in consideration of the comments received, DOE proposes to adopt the ASHRAE 90.1–2016 equipment class structure for VRF multi-split systems in its regulations at 10 CFR 431.97. By adopting the equipment class structure from ASHRAE Standard 90.1–2016, DOE would fulfill requests by stakeholders, utilize terminology that is more representative of distinctive features in the VRF market, and would better align the cooling capacity break points with those for other equipment categories (*e.g.,* the standards for commercial package air conditioning and heating equipment, which are subdivided by the same capacity boundaries. *See* Table 3 to 10 CFR 431.97). As noted previously, DOE has identified two areas for which the equipment class structure differs between the existing DOE standards and ASHRAE Standard 90.1.

(1) Capacity break points. For water-source VRF multi-split heat pumps, the current Federal standards include VRF multi-split systems with cooling capacity greater than or equal to 135,000 Btu/h and less than 760,000 Btu/h in a single category. ASHRAE Standard 90.1–2016 splits this grouping at 240,000 Btu/h to create capacity categories of greater than or equal to 135,000 and less than 240,000 btu/h and greater than or equal to 240,000 and less than 760,000 Btu/h. Also for water-source VRF multi-split systems, the current Federal standards include separate classes for systems with cooling capacity less

than 17,000 Btu/h and for systems with cooling capacity between 17,000 Btu/h and 65,000 Btu/h. ASHRAE Standard 90.1–2016 groups these classes together into a single equipment class with cooling capacity less than 65,000 Btu/h.

(2) Heating type. The current Federal standards are disaggregated for certain classes of VRF multi-split systems based on heating type. For all air-cooled VRF multi-split air conditioners and heat pumps with cooling capacity greater than or equal to 65,000 Btu/h, the Federal cooling standards differ by 0.2 EER points depending on whether a system is equipped with ''no heating or electric resistance heating'' or ''all other types of heating.'' For water-source VRF multi-split heat pumps, some capacity classes disaggregate instead by systems with heat recovery versus without heat recovery (also with a 0.2 EER difference in the applicable standards classes). Other water-source VRF multi-split heat pump standards are not disaggregated beyond the specified capacity range. ASHRAE 90.1–2016 disaggregates standards for air-cooled and water-source VRF multi-split heat pumps based on the presence of heat recovery, instead of ''heating type.'' Air-cooled VRF multi-split air conditioners do not have subdivided cooling efficiency levels based on heating type in ASHRAE Standard 90.1–2016.

These differences are presented in Table III–1:

TABLE III–1—COMPARISON OF CURRENT DOE EFFICIENCY LEVELS WITH ASHRAE 90.1

Equipment type	Cooling capacity	Heating type	DOE efficiency level	ASHRAE 90.1–2016/ 2019 efficiency level
VRF Multi-Split Air Conditioners (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h	No Heating or Electric Resistance Heating.	11.2 EER	11.2 EER, 15.5 IEER.
		All Other Types of Heating	11.0 EER	No Standard.[3]
	≥135,000 Btu/h and <240,000 Btu/h	No Heating or Electric Resistance Heating.	11.0 EER	11.0 EER, 14.9 IEER.
		All Other Types of Heating	10.8 EER	No Standard.[3]
	≥240,000 Btu/h and <760,000 Btu/h	No Heating or Electric Resistance Heating.	10.0 EER	10.0 EER, 13.9 IEER.
		All Other Types of Heating	9.8 EER	No Standard.[3]
VRF Multi-Split Heat Pumps (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h	No Heating or Electric Resistance Heating[1].	11.0 EER, 3.3 COP	11.0 EER, 14.6 IEER, 3.3 COP.
		All Other Types of Heating[1 2]	10.8 EER, 3.3 COP	10.8 EER, 14.4 IEER, 3.3 COP.
	≥135,000 Btu/h and <240,000 Btu/h	No Heating or Electric Resistance Heating[1].	10.6 EER, 3.2 COP	10.6 EER, 13.9 IEER, 3.2 COP.
		All Other Types of Heating[1 2]	10.4 EER, 3.2 COP	10.4 EER, 13.7 IEER, 3.2 COP.
	≥240,000 Btu/h and <760,000 Btu/h	No Heating or Electric Resistance Heating[1].	9.5 EER, 3.2 COP	9.5 EER, 12.7 IEER, 3.2 COP.
		All Other Types of Heating[1 2]	9.3 EER, 3.2 COP	9.3 EER, 12.5 IEER, 3.2 COP.
VRF Multi-Split Heat Pumps (Water-Source).	<17,000 Btu/h	Without heat recovery	12.0 EER, 4.2 COP	12.0 EER, 16.0 IEER, 4.3 COP.
		With heat recovery	11.8 EER, 4.2 COP	11.8 EER, 15.8 IEER, 4.3 COP.
	≥17,000 Btu/h and <65,000 Btu/h	Without heat recovery	12.0 EER, 4.2 COP	12.0 EER, 16.0 IEER, 4.3 COP.
		With heat recovery		11.8 EER, 15.8 IEER, 4.3 COP.
	≥65,000 Btu/h and <135,000 Btu/h	Without heat recovery	12.0 EER, 4.2 COP	12.0 EER, 16.0 IEER, 4.3 COP.
		With heat recovery		11.8 EER, 15.8 IEER, 4.3 COP.
	≥135,000 Btu/h and <240,000 Btu/h	Without heat recovery	10.0 EER, 3.9 COP	10.0 EER, 14.0 IEER, 4.0 COP.
		With heat recovery	9.8 EER, 3.9 COP	9.8 EER, 13.8 IEER, 4.0 COP.
	≥ 240,000 Btu/h and <760,000 Btu/h	Without heat recovery	10.0 EER, 3.9 COP	10.0 EER, 12.0 IEER, 3.9 COP.
		With heat recovery	9.8 EER, 3.9 COP	9.8 EER, 11.8 IEER, 3.9 COP.

[1] In terms of current Federal standards, VRF Multi-Split Heat Pumps (Air-Cooled) with heat recovery fall under the heating type ''All Other Types of Heating'' unless they also have electric resistance heating, in which case it falls under the category for ''No Heating or Electric Resistance Heating.''

[2] In ASHRAE Standard 90.1, this equipment class is referred to as units with heat recovery rather than all other types of heating.

[3] ASHRAE Standard 90.1 only includes standards for VRF air conditioners with ''electric resistance or none'' heating type. Because stakeholders have expressed that it is unlikely that VRF air conditioners would ever be paired with other forms of supplemental heating, DOE's proposed equipment classes for VRF air conditioners are condensed using ''all types of heating'' to ensure no change in coverage or backsliding.

In this document, DOE proposes to amend 10 CFR 431.97 to adopt the equipment class structure found in ASHRAE 90.1–2016 for VRF multi-split systems (which is identical to the most current version, ASHRAE Standard 90.1–2019). This proposal would amend the existing DOE class structure by expanding the number of VRF water-source heat pump classes, reducing the number of air-cooled VRF air conditioner classes, and amending the convention for heating type for heat pump systems with and without heat recovery. Additionally, DOE is proposing a minor clarification in the language used to describe the heating type for VRF multi-split system heat pumps—ASHRAE 90.1–2016 currently includes separate classes for systems with and without heat recovery, designated as ''VRF multisplit systems'' or ''VRF multisplit system with heat recovery.'' However, DOE proposes a minor clarification to revise these descriptions to explicitly state either ''heat pump without heat recovery'' or ''heat pump with heat recovery.''

For VRF multi-split system air conditioners, ASHRAE 90.1–2016 only includes classes with the heating type designation of ''Electric resistance (or none),'' thus excluding any VRF multi-split air conditioners with ''other'' kinds of heating. As previously described, DOE received comment from stakeholders requesting that DOE align its equipment class structure with the structure from ASHRAE 90.1–2016.

(AHRI, No. 42 at p. 3; CA IOUs, No. 41 at p. 3) However, because the current Federal standards include separate efficiency levels for VRF multi-split air conditioners having electric resistance (or no) heat vs. those having ''all other types of heating,'' DOE is proposing to label the condensed equipment classes for VRF multi-split air conditioners as having ''All'' types of heating, and to set IEER standards for the proposed condensed classes that are equivalent in stringency to the EER standards for the class with ''electric resistance or none'' heating type. DOE does not have any knowledge of VRF multi-split air conditioners on the market that have ''all other types of heating'' (*e.g.,* a furnace), and, thus, has tentatively concluded that setting IEER standards to cover ''all'' kinds of heating would not constitute an increase of stringency for any models currently in existence.

The ASRAC Working Group recommended IEER levels for VRF multi-split systems that utilized the equipment class structure of ASHRAE Standard 90.1–2016 (with limited exceptions as previously described). As discussed in section III.A of this document, DOE evaluated the IEER levels recommended by the ASRAC Working Group using a crosswalk analysis and determined that there is limited precision in translating the current EER levels to IEER according to the updated test procedure. In cases where DOE is proposing to subdivide or condense equipment classes relative to the existing DOE equipment class structure, the IEER levels recommended by the Working Group are within the limits of precision determined by DOE's crosswalk translation. For example, in cases where the current DOE equipment class only includes a single EER standard but ASHRAE Standard 90.1–2016 includes separate IEER standards for classes with and without heat recovery, both of the ASHRAE Standard 90.1 IEER levels fall within the crosswalk range determined by DOE to represent equivalent stringency to existing EER standard. Therefore, DOE has tentatively concluded that adopting the proposed class structure and efficiency levels would not result in a change in stringency for any classes.

Issue 2: DOE requests comment on its proposal to align equipment classes for VRF multi-split systems with the structure in ASHRAE Standard 90.1–2016, with additional clarification of heating type.

IV. Estimates of Potential Energy Savings

As required under 42 U.S.C. 6313(a)(6)(A)(i), for VRF multi-split system equipment classes for which ASHRAE Standard 90.1–2016 set levels more stringent than the current Federal standards, DOE performed an assessment to determine the energy-savings potential of amending Federal standard levels to reflect the efficiency levels specified in ASHRAE Standard 90.1–2016. In the July 2019 NODA/RFI, DOE presented the findings of the energy savings potential for the six considered equipment classes for which the Department was triggered. 84 FR 32328, 32335 (July 8, 2019). DOE tentatively determined, based on a report by Cadeo Group,[14] that four of the six affected classes—those with cooling capacities that are less than 17,000 Btu/h or greater than or equal to 135,000 Btu/h (with or without heat recovery), do not have any market share and, thus, no energy savings potential from amended standards. The Cadeo report showed that the remaining two affected classes, with cooling capacities greater than 17,000 Btu/h and less than 135,000 Btu/h, represented under 3 percent of the VRF multi-split system market. DOE tentatively concluded that potential energy savings for these equipment classes were *de minimis. Id.* DOE notes that in ASHRAE Standard 90.1–2016, the COP was raised by 0.1 on both of these equipment classes, and that most commercial buildings are cooling dominant. Given this information, and the small market share, in this NOPR DOE maintains its tentative conclusion that energy savings for these equipment classes are *de minimis.* Consideration of more-stringent efficiency levels than those specified in ASHRAE Standard 90.1 are discussed in section V.A of this document.

V. Conclusions

A. Consideration of More-Stringent Efficiency Levels

When triggered by an update to ASHRAE Standard 90.1, EPCA requires DOE to establish an amended uniform national standard for equipment classes at the minimum level specified in the amended ASHRAE Standard 90.1 unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE Standard 90.1 for the equipment class would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(I)–(II)). In the July 2019 NODA/RFI, DOE requested feedback on its proposal to adopt the levels in ASHRAE Standard 90.1–2016 as the Federal standards for the six VRF water-source classes for which DOE was triggered by ASHRAE Standard 90.1–2016. 84 FR 32328, 32335 (July 8, 2019). DOE also requested data and information that could help it determine whether standards levels more stringent than the levels in ASHRAE Standard 90.1–2016 for VRFs would result in significant additional energy savings for classes for the 14 classes where DOE was not triggered (*i.e.,* classes reviewed under the six-year-lookback provision). *Id.* at 84 FR 32335–32336.

AHRI supported DOE's proposal to adopt the energy efficiency levels for the six equipment classes triggered by ASHRAE Standard 90.1–2016. (AHRI, No. 42 at p. 3) AHRI added that the adoption of a more-stringent standard of the non-triggered classes is not economically justified at this time and that the stringency of any new standards need to account for all of the changes in the test procedure as a result of the Working Group negotiations (especially the CVP and SHR limits). (AHRI, No. 42 at p. 4) AHRI also provided information regarding the building types that are common applications for VRF. (AHRI, No. 42 at p. 4)

The CA IOUs recommended that the Working Group and DOE analyze a range of efficiency levels (including max-tech) for both water-source and air-source VRF systems. The CA IOUs also stressed that any changes to the energy conservation standards should account for the test procedure changes being discussed by the Working Group. The CA IOUs acknowledged that while DOE's data show limited sales on water-source VRF multi-split systems, they still believe that the Working Group should analyze trial standard levels for these classes. (CA IOUs, No. 41 at p. 4) The CA IOUs provided a set of historical VRF incentive program data to assist in the energy use analysis and recommended that DOE use Energy Plus[15] to analyze the energy use of VRF multi-split systems. (CA IOUs, No. 41 at pp. 6–12)

HIA–C commented that DOE should first ensure that VRF multi-split systems

[14] Cadeo Report, Variable Refrigerant Flow: A Preliminary Market Assessment. *See: www.regulations.gov/document?D=EERE-2017-BT-TP-0018-0002.* The report presents market share by VRF multi-split system equipment class, based on confidential sales data given in interviews with several major manufacturers of VRF multi-split equipment and DOE's Compliance Certification Database.

[15] Energy Plus is a whole-building energy simulation program that engineers, architects, and researchers use to model both energy consumption for heating cooling, ventilation, lighting, plug and process loads, and water use in buildings. (Available at *https://energyplus.net/*)

can actually meet the current ASHRAE Standard 90.1 efficiency levels before attempting to adopt new efficiency levels. (HIA–C, No. 40 at p. 4)

Policy Integrity commented on the emissions analysis, suggesting that DOE should monetize the full benefits of emissions reductions and use the global estimate of the social cost of greenhouse gases. (Policy Integrity, No. 39 at p. 2) In response, DOE considers the monetary benefits likely to result from the reduced emissions of greenhouse gases when analyzing efficiency levels more stringent than the ASHRAE Standard 90.1 levels. DOE uses the social cost of greenhouse gases from the most recent update of the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government (IWG) working group, which are available in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990.[16] The IWG recommended global values be used for regulatory analysis. Because DOE is not conducting an economic analysis of levels more stringent than the ASHRAE Standard 90.1 levels in this notice, there is no corresponding consideration of emission reductions or the associated monetary benefits. As DOE is required by EPCA to adopt the levels set forth in ASHRAE Standard 90.1, DOE did not conduct an economic analysis or corresponding emissions analysis for the levels in ASHRAE Standard 90.1–2019.

As discussed in section II.B.3 of this NOPR, following publication of the July 2019 NODA/RFI, the Working Group (which included AHRI and the CA IOUs) reached consensus on two term sheets containing recommendations regarding the test procedure and energy conservation standards for VRF multi-split systems. As discussed in section III.A of this document, the recommended standards are consistent with the crosswalk conducted by DOE to translate the existing Federal standards in terms of EER to equivalent levels in terms of IEER, measured per AHRI 1230–2021. These recommended efficiency levels also align with the IEER and COP levels in ASHRAE Standard 90.1–2016. The Working Group did not consider more-stringent efficiency levels.

DOE considered but did not estimate potential energy savings that would occur from more-stringent standards. To assess the magnitude of potential energy savings from amended standards and determine which level, if any, of more-stringent standards would be economically justified, DOE must be able to properly represent the no-new-standards case—the case without amended standards—and must be able to properly characterize the technology options and costs associated with specific levels of efficiency. With regards to VRF multi-split systems, this would require developing efficiency data for the entire market in terms of IEER measured per AHRI 1230–2021.

DOE considered two approaches for developing market-wide performance data in terms of IEER measured per AHRI 1230–2021: (1) DOE examined whether any such data exist in publicly-available sources, and (2) DOE considered whether existing performance data (in terms of EER, measured per the current Federal test procedure) could be effectively translated to IEER, measured per AHRI 1230–2021.

On the first approach, DOE found that public data in terms of IEER measured per AHRI 1230–2021 are not available, as the rating of VRF multi-split systems using the updated metric and test procedure is not currently required.[17] While DOE acknowledges that IEER performance data are widely represented by VRF manufacturers, all such data are measured per an earlier version of the industry test standard (AHRI 1230–2014) and, thus, not directly comparable. DOE also found that the AHRI Directory does not yet require IEER representations measured per AHRI 1230–2021.

On the second approach, DOE considered the results of its crosswalk analysis to determine whether a market-wide translation of existing EER data to IEER data (measured per AHRI 1230–2021) was possible. As discussed in section III.A of this document, the combined effect of translating the Federal cooling efficiency metric from EER to IEER and the effect of test procedure changes between the current DOE test procedure (which references AHRI 1230–2010) and the proposed DOE test procedure (which would reference AHRI 1230–2021) is likely to produce different impacts on measured efficiency across different manufacturers and different models. As DOE's crosswalk analysis has shown, a minimally-compliant VRF multi-split system with 10.8 EER can result in a range of crosswalked IEER levels from 13 to 16, depending on control inputs selected by the manufacturer. Additionally, an estimation of energy savings potentials of more-stringent energy efficiency levels would require developing efficiency data for the entire VRF multi-split system market, which would be a much broader analysis than that conducted for the crosswalk. The crosswalk analysis conducted to support the Working Group recommendations and presented in this NOPR only translated the baseline efficiency level between the metrics for a single class of VRF multi-split system, and did not translate all efficiency levels currently represented in the market. As noted, there are insufficient market data regarding the performance of VRF multi-split systems measured in terms of IEER per AHRI 1230–2021. As such, DOE has preliminarily determined that it lacks clear and convincing evidence to adopt more-stringent standard levels.

Regardless of whether DOE preliminarily determined that more-stringent standards would be technologically feasible and economically justified, DOE would be unable to adopt such standards absent a determination, supported by clear and convincing evidence, that more-stringent standards would result in significant additional energy savings. (42 U.S.C. 6313(a)(6)(A)(ii)(II)) Therefore, having preliminarily determined that it lacks clear and convincing evidence as to the energy savings that would result from more-stringent standards, DOE has not conducted analysis as to the technological feasibility or economic justification of such standards for VRF multi-split systems.

B. Review Under the Six-Year Lookback Provision

As discussed, DOE is required to conduct an evaluation of each class of covered equipment in ASHRAE Standard 90.1 every six years. (42 U.S.C. 6313(a)(6)(C)(i)) Accordingly, DOE is evaluating 12 of the Federal VRF equipment classes for which ASHRAE Standard 90.1–2016 did not increase the stringency of the standards. Energy conservation standards for the two remaining classes of VRF multi-split systems (*i.e.,* three-phase, air-cooled VRF multi-split systems with cooling capacity less than 65,000 Btu/h) are not addressed in this NOPR and instead will be addressed in a separate energy conservation standards rulemaking. DOE may only adopt more-stringent

[16] Interagency Working Group on Social Cost of Greenhouse Gasses, United States Government, Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 (2021) (Available at: *www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf*).

[17] The VRF TP Term Sheet recommended an effective date for the amended test procedure to coincide with the compliance date of amended standards in terms of IEER, if adopted by DOE.

standards pursuant to the six-year look-back review if the Secretary determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that the adoption of more-stringent standards would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(C)(i)(II); 42 U.S.C. 6313(a)(6)(B); 42 U.S.C. 6313(a)(6)(A)(ii)(II))

For the reasons presented in the prior section, DOE has preliminarily determined that it lacks clear and convincing evidence that more-stringent standards for these 12 equipment classes would result in significant additional energy savings. Because DOE does not have sufficient data to meet the ''clear and convincing'' threshold for these 12 classes, DOE did not conduct an analysis of standard levels more stringent than the current Federal standard levels for VRF multi-split systems that were not amended in ASHRAE Standard 90.1–2016. See section V.A of this document for further discussion of the consideration of energy efficiency levels more stringent than the ASHRAE Standard 90.1–2016 levels.

C. Proposed Energy Conservation Standards

Based on the foregoing, DOE proposes amended energy conservation standards for VRF multi-split systems in terms of IEER and COP equivalent to those specified for VRF multi-split systems in ASHRAE Standard 90.1–2016, which align with the levels recommended in the VRF ECS Term Sheet. The proposed standards are presented in Table I–1. Compliance with the proposed standards, if adopted, would be required for VRF multi-split systems manufactured in, or imported into, the United States starting January 1, 2024. which aligns with the Working Group's recommendation in the VRF ECS Term Sheet.

As discussed, ASHRAE Standard 90.1–2016 includes more-stringent COP standards for six water-source VRF multi-split heat pump classes. If DOE were to prescribe COP standards at the efficiency levels contained in ASHRAE Standard 90.1–2016 for these classes, EPCA provides that the compliance date shall be on or after a date that is two or three years (depending on the equipment type or size) after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE standard. (42 U.S.C. 6313(a)(6)(D)). The effective date for amended COP standards in ASHRAE Standard 90.1–2016 was January 1, 2017. DOE acknowledges that the statute originally tied calculation of a compliance date to either two or three years after the effective date of amended ASHRAE Standard 90.1. However, because these dates have passed, DOE is proposing the date recommended in the VRF ECS Term Sheet (*i.e.,* January 1, 2024) as a reasonable amount of lead time supported by a broad array of interested stakeholders. If DOE receives comments in response to this notice that recommend alternative compliance date(s) later than January 1, 2024, DOE will consider adopting alternative compliance date(s) in the final rule.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the proposed standards for VRF multi-split systems set forth in this NOPR are intended to address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases, the benefits of more-efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of appliances and equipment that are not captured by the users of such products. These benefits include externalities related to public health, environmental protection, and national energy security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming. DOE attempts to quantify some of the external benefits through use of social cost of carbon values.

The Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this regulatory action is not a significant regulatory action under section 3(f) of E.O. 12866. Accordingly, DOE has not prepared a regulatory impact analysis for this rule, and OIRA in the OMB has not reviewed this proposed rule.

DOE has also reviewed this regulation pursuant to E.O. 13563, issued on January 18, 2011. 76 FR 3821 (Jan. 21, 2011). E.O. 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in E.O. 12866. To the extent permitted by law, agencies are required by E.O. 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law

must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*https://energy.gov/gc/office-general-counsel*).

DOE reviewed this proposed rule to amend the Federal energy conservation standards for VRF multi-split systems under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not have significant economic impact on a substantial number of small entities. The factual basis of this certification is set forth in the following paragraphs.

DOE is proposing to amend the existing Federal minimum energy conservation standards for VRF multi-split systems under EPCA's ASHRAE trigger requirement and the six-year lookback provision. Under the trigger, EPCA directs that if ASHRAE amends ASHRAE Standard 90.1, DOE must adopt uniform national amended standards at the new ASHRAE efficiency level, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that adoption of a more-stringent level would produce significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)) Under the six-year-lookback, DOE must also review energy efficiency standards for VRF multi-split systems every six years and either: (1) Issue a notice of determination that the standards do not need to be amended based upon the criteria in 42 U.S.C. 6313(a)(6)(A) (*i.e.,* that there is clear and convincing evidence to show that adoption of a more-stringent level would save significant additional energy and would be technologically feasible and economically justified); or (2) issue a notice of proposed rulemaking including new proposed standards based on certain criteria and procedures in 42 U.S.C. 6313(a)(6)(B). (42 U.S.C. 6313(a)(6)(C))

In this NOPR, DOE proposes to update the standards for VRF multi-split systems at 10 CFR 431.97 to align with the most recent version of ASHRAE Standard 90.1, including the updated COP levels for the six classes of VRF multi-split water-source heat pumps on which DOE was triggered. DOE is also proposing to express cooling efficiency standards in terms of the IEER metric, as measured according to the amended industry test procedure AHRI 1230–2021, and to remove standard levels in terms of the EER metric, as measured according to the current DOE test procedure. Finally, DOE is proposing to amend the equipment class structure for VRF multi-split systems to align with the equipment class structure present in ASHRAE Standard 90.1, with regards to capacity break points, supplementary heating type, and presence of heat recovery. The proposed standard levels, if adopted, would have a compliance date applying to all VRF multi-split systems manufactured on or after January 1, 2024. The proposed Table 14 to 10 CFR 431.97 accounts for all changes between the previous Federal VRF multi-split system standards and those outlined in ASHRAE Standard 90.1–2016 (as reaffirmed in ASHRAE Standard 90.1–2019).

DOE uses the Small Business Administration (SBA) small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the North American Industry Classification System (NAICS).[18] The SBA considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121.

VRF multi-split system manufacturers are classified under NAICS code 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. This employee threshold includes all employees in a business's parent company and any other subsidiaries.

DOE has recently conducted a focused inquiry into small business manufacturers of the equipment covered by this rulemaking. DOE used available public information to identify potential small manufacturers that manufacture domestically. DOE identified manufacturers using DOE's Compliance Certification Database [19] and the AHRI Directory database.[20] DOE used this publicly-available information to identify ten distinct original equipment manufacturers (OEMs) of the covered VRF multi-split system equipment. In reviewing the ten OEMs, DOE did not identify any companies that met the SBA criteria for a small entity.

Issue 3: DOE requests comment on its tentative conclusions that no small business OEMs of VRF multi-split systems, that adoption of the prevailing industry standard levels would not result in any significant economic impact, and, accordingly, that the proposed rule would not have significant impacts on a substantial number of small manufacturers.

Therefore, DOE tentatively concludes that this proposed rule, if finalized, would not have ''a significant impact on a substantial number of small entities'' and that preparation of an IRFA is not warranted. Additional information about this proposal is addressed elsewhere in this document. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

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

[18] The size standards are listed by NAICS code and industry description and are available at: *www.sba.gov/document/support-table-size-standards* (Last accessed on July 16, 2021).

[19] DOE's Compliance Certification Database is available at: *www.regulations.doe.gov/ccms* (Last accessed May 10, 2021).

[20] The AHRI Directory Database is available at: *www.ahridirectory.org* (Last accessed on May 10, 2021).

data needed, and completing and reviewing the collection of information.

This NOPR is not proposing changes to the certification and reporting requirements for VRF multi-split system manufacturers.

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

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings that establish energy conservation standards for consumer products or industrial equipment. 10 CFR part 1021, subpart D, appendix B5.1. DOE anticipates that this rulemaking qualifies for categorical exclusion B5.1 because it is a rulemaking that establishes amended energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in categorical exclusion B5.1(b) apply, no extraordinary circumstances exist that require further environmental analysis, and it otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, section 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *https://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this proposed rule according to UMRA and its statement of policy and determined that this proposed rule contains neither a Federal intergovernmental mandate, nor a mandate that may result in the expenditures of $100 million or more in any one year. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which proposes amended energy conservation standards for VRF multi-split systems, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2664, 2667 (Jan. 14, 2005).

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a report describing that peer review.[21] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. DOE has determined that the peer-reviewed analytical process continues to reflect current practice, and the Department followed that process for developing energy conservation standards in the case of the present rulemaking.

VII. Public Participation

A. Participation at the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rule, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting webinar. Such persons may submit requests to speak via email to the Appliance and Equipment Standards Program at: *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the public meeting webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Public Meeting Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the

[21] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at the following website: *https://energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0.*

proceedings and any aspect of the proposed rulemaking.

The public meeting webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting webinar.

A transcript of the webinar/public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPR. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

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

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

However, your contact information will be publicly viewable if you include it in the comment itself 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. If this instruction is followed, 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 in 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 telefacsimiles (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, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

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

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

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

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

Issue 1: DOE requests comment on its crosswalk analysis methodology and crosswalk results.

Issue 2: DOE requests comment on its proposal to align equipment classes for VRF multi-split systems with the structure in ASHRAE Standard 90.1–2016, with additional clarification for heating type.

Issue 3: DOE requests comment on its tentative conclusions that there are no small businesses that are OEMs of VRF multi-split systems, that adoption of the prevailing industry standard levels would not result in any significant economic impact, and accordingly, that the proposed rule would not have significant impacts on a substantial number of small manufacturers.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this rulemaking that may

not specifically be identified in this document.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on February 9, 2022, 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 administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 17, 2022.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE proposes to amend part 431 of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.97 is amended by:

■ a. Revising paragraph (f) and Table 13; and

■ b. Adding Table 14.

The revisions and addition read as follows:

§ 431.97 Energy efficiency standards and their compliance dates.

* * * * *

(f)(1) Each variable refrigerant flow air conditioner or heat pump manufactured on or after the compliance date listed in Table 13 of this section and prior to January 1, 2024, must meet the applicable minimum energy efficiency standard level(s) set forth in Table 13 of this section.

TABLE 13 TO PARAGRAPH (F)(1)—MINIMUM EFFICIENCY STANDARDS FOR VARIABLE REFRIGERANT FLOW MULTI-SPLIT AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Cooling capacity	Heating type [1]	Efficiency level	Compliance date: Products manufactured on and after . . .
VRF Multi-Split Air Conditioners (Air-Cooled).	<65,000 Btu/h	All	13.0 SEER	June 16, 2008.
	≥65,000 Btu/h and <135,000 Btu/h.	No Heating or Electric Resistance Heating.	11.2 EER	January 1, 2010.
		All Other Types of Heating	11.0 EER	January 1, 2010.
	≥135,000 Btu/h and <240,000 Btu/h.	No Heating or Electric Resistance Heating.	11.0 EER	January 1, 2010.
		All Other Types of Heating	10.8 EER	January 1, 2010.
	≥240,000 Btu/h and <760,000 Btu/h.	No Heating or Electric Resistance Heating.	10.0 EER	January 1, 2010.
		All Other Types of Heating	9.8 EER	January 1, 2010.
VRF Multi-Split Heat Pumps (Air-Cooled).	<65,000 Btu/h	All	13.0 SEER, 7.7 HSPF	June 16, 2008.
	≥65,000 Btu/h and <135,000 Btu/h.	No Heating or Electric Resistance Heating.	11.0 EER, 3.3 COP	January 1, 2010.
		All Other Types of Heating	10.8 EER, 3.3 COP	January 1, 2010.
	≥135,000 Btu/h and <240,000 Btu/h.	No Heating or Electric Resistance Heating.	10.6 EER, 3.2 COP	January 1, 2010.
		All Other Types of Heating	10.4 EER, 3.2 COP	January 1, 2010.
	≥240,000 Btu/h and <760,000 Btu/h.	No Heating or Electric Resistance Heating.	9.5 EER, 3.2 COP	January 1, 2010.
		All Other Types of Heating	9.3 EER, 3.2 COP	January 1, 2010.
VRF Multi-Split Heat Pumps (Water-Source).	<17,000 Btu/h	Without Heat Recovery	12.0 EER, 4.2 COP	October 29, 2012. October 29, 2003.
		With Heat Recovery	11.8 EER, 4.2 COP	October 29, 2012. October 29, 2003.
	≥17,000 Btu/h and <65,000 Btu/h	All	12.0 EER, 4.2 COP	October 29, 2003.
	≥65,000 Btu/h and <135,000 Btu/h.	All	12.0 EER, 4.2 COP	October 29, 2003.
	≥135,000 Btu/h and <760,000 Btu/h.	Without Heat Recovery	10.0 EER, 3.9 COP	October 29, 2013.
		With Heat Recovery	9.8 EER, 3.9 COP	October 29, 2013.

[1] VRF multi-split heat pumps (air-cooled) with heat recovery fall under the category of ''All Other Types of Heating'' unless they also have electric resistance heating, in which case it falls under the category for ''No Heating or Electric Resistance Heating.''

(2) Each variable refrigerant flow air conditioner or heat pump (except air-cooled systems with cooling capacity less than 65,000 Btu/h) manufactured on or after January 1, 2024, must meet the applicable minimum energy efficiency standard level(s) set forth in Table 14 of this section.

TABLE 14 TO PARAGRAPH (F)(2)—UPDATED MINIMUM EFFICIENCY STANDARDS FOR VARIABLE REFRIGERANT FLOW MULTI-SPLIT AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Size category	Heating type	Minimum efficiency
VRF Multi-Split Air Conditioners (Air-Cooled).	≥65,000 and <135,000 Btu/h	All	15.5 IEER.
	≥135,000 and <240,000 Btu/h	All	14.9 IEER.
	≥240,000 Btu/h and <760,000 Btu/h	All	13.9 IEER.
VRF Multi-Split Heat Pumps (Air-Cooled).	≥65,000 and <135,000 Btu/h	Heat Pump without Heat Recovery	14.6 IEER, 3.3 COP.
		Heat Pump with Heat Recovery	14.4 IEER, 3.3 COP.
	≥135,000 and <240,000 Btu/h	Heat Pump without Heat Recovery	13.9 IEER, 3.2 COP.
		Heat Pump with Heat Recovery	13.7 IEER, 3.2 COP.
	≥240,000 Btu/h and <760,000 btu/h	Heat Pump without Heat Recovery	12.7 IEER, 3.2 COP.
		Heat Pump with Heat Recovery	12.5 IEER, 3.2 COP.
VRF Multi-Split Heat Pumps (Water-Source).	<65,000 Btu/h	Heat Pump without Heat Recovery	16.0 IEER, 4.3 COP.
		Heat Pump with Heat Recovery	15.8 IEER, 4.3 COP.
	≥65,000 and <135,000 Btu/h	Heat Pump without Heat Recovery	16.0 IEER, 4.3 COP.
		Heat Pump with Heat Recovery	15.8 IEER, 4.3 COP.
	≥135,000 and <240,000 Btu/h	Heat Pump without Heat Recovery	14.0 IEER, 4.0 COP.
		Heat Pump with Heat Recovery	13.8 IEER, 4.0 COP.
	≥240,000 Btu/h and <760,000 Btu/h	Heat Pump without Heat Recovery	12.0 IEER, 3.9 COP.
		Heat Pump with Heat Recovery	11.8 IEER, 3.9 COP.

[FR Doc. 2022–03836 Filed 2–28–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0150; Project Identifier MCAI–2021–00839–E]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd. & Co KG (RRD) Trent 7000–72 and Trent 7000–72C model turbofan engines. This proposed AD was prompted by in-service experience showing that certain high-pressure turbine (HPT) blades may prematurely deteriorate to an unacceptable condition when managed in accordance with the inspection intervals in the Time Limits Manual (TLM). This proposed AD would require initial and repetitive on-wing borescope inspections (BSIs) of the HPT blades to detect axial cracking and, depending on the results of the inspections, replacement of the HPT blade set, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also require replacement of the HPT blade set before exceeding a specified number of flight cycles. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 15, 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 that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* For Rolls-Royce service information identified in this NPRM, 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.* 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 at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0150. 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–2022–0150; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the 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; email: *nicholas.j.paine@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0150; Project Identifier MCAI–2021–00839–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to 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.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0169, dated July 19, 2021 (EASA AD 2021–0169), to address an unsafe condition for all RRD Trent 7000–72 and Trent 7000–72C model turbofan engines.

This proposed AD was prompted by in-service experience showing that certain HPT blades may prematurely deteriorate to an unacceptable condition when managed in accordance with the inspection intervals in the TLM. The manufacturer has issued Rolls-Royce (RR) Alert Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK449, Revision 2, dated July 5, 2021 (the Alert NMSB) specifying procedures for performing initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking. The Alert NMSB also specifies procedures for removing the engine from service to replace the HPT blade set before exceeding a specified number of flight cycles. The compliance time for the initial and repetitive BSIs of the HPT blades proposed by this AD meet the TLM inspection intervals for HPT blade, part number KH64485. The FAA is proposing this AD to prevent failure of the HPT blades. This condition, if not addressed, could result in failure of the engine, in-flight shutdown, and loss of the airplane. See EASA AD 2021–0169 for additional background information.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified about the unsafe condition described in the EASA AD. The FAA is issuing this NPRM because the agency evaluated all the relevant information provided by EASA and determined the unsafe 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 2021–0169. EASA AD 2021–0169 specifies instructions for performing initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking and, depending on the results of the inspections, removal from service of the engine for in-shop replacement of the HPT blade set. EASA AD 2021–0169 also specifies instructions for replacing HPT blades with a new HPT blade set before exceeding a specified number of flight cycles.

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 RR Alert NMSB Trent 1000 72–AK449, Revision 2, dated July 5, 2021. This Alert NMSB specifies procedures for performing initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking. The Alert NMSB also specifies procedures for removing the engine to replace the HPT blade set before exceeding a specified number of flight cycles.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0169, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, the FAA proposes to incorporate by reference EASA AD 2021–0169 in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0169 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0169 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 2021–0169. Service information specified by EASA AD 2021–0169 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0150 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

Where EASA AD 2021–0169 requires compliance from its effective date, this proposed AD would require using the effective date of this AD. This proposed AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0169.

Interim Action

The FAA considers that this proposed AD would be an interim action. If final action is later identified, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 16 engines installed on airplanes of U.S. Registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSI HPT Blades	4 work-hours × $85 per hour = $340	$0	$340	$5,440

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace HPT Blade Set	16 work-hours × $85 per hour = $1,360	$2,001,780	$2,003,140

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Docket No. FAA–2022–0150; Project Identifier MCAI–2021–00839–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (Type Certificate previously held by Rolls-Royce plc) Trent 7000–72 and Trent 7000–72C model turbofan engines.

(d) Subject

Joint Aircraft Service Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by in-service experience showing that certain high-pressure turbine (HPT) blades may prematurely deteriorate to an unacceptable condition when managed in accordance with the inspection intervals defined in the Time Limits Manual. The FAA is issuing this AD to prevent failure of the HPT blades. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, and loss 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 2021–0169, dated July 19, 2021 (EASA AD 2021–0169).

(h) Exceptions to EASA AD 2021–0169

(1) Where EASA AD 2021–0169 requires compliance from its effective date, this proposed AD would require using the effective date of this AD.

(2) This AD does not require compliance with the ''Remarks'' section of EASA AD 2021–0169.

(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)(2) of this AD and email to: *ANE-AD-AMOC@faa.gov.*

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

(j) Related Information

(1) For more information about EASA AD 2021–0169, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *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. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0150.

(2) 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; email: *nicholas.j.paine@faa.gov.*

(3) For service information identified in this AD, 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.* 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.

Issued on February 24, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–04276 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0129; Airspace Docket No. 22–AGL–8]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Marshall, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Marshall, MI. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Litchfield very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program.

DATES: Comments must be received on or before April 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0129/Airspace Docket No. 22–AGL–8 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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 Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Brooks Field, Marshall, MI, to support instrument flight rule operations at this airport.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0129/Airspace Docket No. 22–AGL–8.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile (decreased from a 6.5-mile) radius of Brooks Field, Marshall, MI; removing the city associated with the airport in the header to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and removing the exclusionary language from the airspace legal description as it is not required.

This action is due to an airspace review conducted as part of the decommissioning of the Litchfield VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 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 Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Accordingly, pursuant to the authority delegated to me, 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MI E5 Marshall, MI [Amended]

Brooks Field, MI

(Lat. 42°15′04″ N, long. 84°57′20″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Brooks Field.

Issued in Fort Worth, Texas, on February 24, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–04242 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0128; Airspace Docket No. 22–AGL–7]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Worthington, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Worthington, MN. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Worthington very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program. The geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0128/Airspace Docket No. 22–AGL–7 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Worthington Municipal Airport, Worthington, MN, to support instrument flight rule operations at this airport.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0128/Airspace Docket No. 22–AGL–7.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class E surface airspace to within a 4.1-mile (decreased from a 7-mile) radius of Worthington Municipal Airport, Worthington, MN; updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and updating the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

And amending the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (decreased from a 7-mile) radius of Worthington Municipal Airport; amending the extension to the north to extending from the 6.6-mile (decreased from a 7-mile) radius of the airport to 10.8 (decrease from 11.6) miles north of the airport; and amending the extension to the south to 1 (decreased from 2) mile each side of the 180° (previously 176°) bearing from the airport extending from the 6.6-mile (decreased from 7-mile) radius of the airport to 11.2 (increased from 11.1) miles south of the airport.

This action is due to an airspace review conducted as part of the decommissioning of the Worthington VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraphs 6002 and 6005, respectively, 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 Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Accordingly, pursuant to the authority delegated to me, 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 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL MN E2 Worthington, MN [Amended]

Worthington Municipal Airport, MN
(Lat. 43°39′18″ N, long. 95°34′45″ W)

Within a 4.1-mile radius of Worthington Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AGL MN E5 Worthington, MN [Amended]

Worthington Municipal Airport, MN
(Lat. 43°39′18″ N, long. 95°34′45″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Worthington Municipal Airport, and within 2 miles each side of the 000° bearing from the airport extending from the 6.6-mile radius to 10.8 miles north of the airport, and within 1 mile each side of the 180° bearing from the airport extending from the 6.6-mile radius to 11.2 miles south of the airport.

Issued in Fort Worth, Texas, on February 24, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–04243 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0132; Airspace Docket No. 22–ACE–5]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Ellsworth, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Ellsworth, KS. The FAA is proposing this action as the result of new public instrument procedures being established at Ellsworth Municipal Airport, Ellsworth, KS.

DATES: Comments must be received on or before April 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0132/Airspace Docket No. 22–ACE–5 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface at Ellsworth Municipal Airport, Ellsworth, KS, to support instrument flight rule operations at this airport.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0132/Airspace Docket No. 22–ACE–5.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above within a 6.5-mile radius of Ellsworth Municipal Airport, Ellsworth, KS.

This action is necessary due to the development of new public instrument procedures at Ellsworth Municipal Airport.

Class E airspace designations are published in paragraph 6005 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 Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Accordingly, pursuant to the authority delegated to me, 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE KS E5 Ellsworth, KS [Establish]

Ellsworth Municipal Airport, KS
(Lat. 38°45′02″ N, long. 98°13′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ellsworth Municipal Airport.

Issued in Fort Worth, Texas, on February 23, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–04221 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0131; Airspace Docket No. 22–ACE–4]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Joplin, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace at Joplin, MO. The FAA is proposing this action as the result of an airspace review as part of the decommissioning of the Neosho very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program. The geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0131/Airspace Docket No. 22–ACE–4 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace, the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Joplin Regional Airport, Joplin, MO, to support instrument flight rule operations at this airport.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0131/Airspace Docket No. 22–ACE–4.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class D airspace at Joplin Regional Airport, Joplin, MO, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and updating the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E surface airspace at Joplin Regional Airport by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and updating the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

And amending the Class E airspace extending upward from 700 feet above the at Joplin Regional Airport by removing the LUNNS LOM and associated extension from the airspace legal description as they are no longer required; adding an extension 2.4 miles each side of the 182° bearing from the airport extending from the 6.8-mile radius of the airport to 7.1 miles south of the airport; adding an extension 3.8 miles each side of the 318° bearing from the airport extending from the 6.8-mile radius of the airport to 12.5 miles northwest of the airport; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is necessary due to an airspace review as part of the decommissioning of the Neosho VOR, which provided navigation information for the instrument procedures this airport, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraphs 5000, 6002, and 6005, respectively, 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 Class D and E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11. FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Accordingly, pursuant to the authority delegated to me, 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 5000 Class D Airspace.

* * * * *

ACE MO D Joplin, MO [Amended]

Joplin Regional Airport, MO
(Lat. 37°09′11″ N, long. 94°29′56″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.3-mile radius of Joplin Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ACE MO E2 Joplin, MO [Amended]

Joplin Regional Airport, MO
(Lat. 37°09′11″ N, long. 94°29′56″ W)

Within a 4.3-mile radius of Joplin Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ACE MO E5 Joplin, MO [Amended]

Joplin Regional Airport, MO
(Lat. 37°09′11″ N, long. 94°29′56″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Joplin Regional Airport, and within 2.4 miles each side of the 182° bearing from the airport extending from the 6.8-mile radius to 7.1 miles south of the airport, and within 3.8 miles each side of the 318° bearing from the airport extending from the 6.8-mile radius to 12.5 miles northwest of the airport.

Issued in Fort Worth, Texas, on February 24, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–04241 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0130; Airspace Docket No. 22–AGL–9]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Ashtabula, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Ashtabula, OH. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Jefferson very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program. The name and geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0130/Airspace Docket No. 22–AGL–9 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Northeast Ohio Regional Airport, Ashtabula, OH, to support instrument flight rule operations at this airport.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0130/Airspace Docket No. 22–AGL–9.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Northeast Ohio Regional Airport, Ashtabula, OH, by adding an extension 2 miles each side of the 259° bearing from the airport extending from the 6.5-mile radius of the airport to 9.6 miles west of the airport; removing the city associated with Ashtabula County Medical Center, contained within the airspace legal description, in the header to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and updating the name (previously Ashtabula County Airport), state, and geographic coordinates of Northeast Ohio Regional Airport to coincide with the FAA's aeronautical database.

This action is due to an airspace review conducted as part of the decommissioning of the Jefferson VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 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 Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Accordingly, pursuant to the authority delegated to me, 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AGL OH E5 Ashtabula, OH [Amended]

Northeast Ohio Regional Airport, OH
(Lat. 41°46′40″ N, long. 80°41′48″ W)
Ashtabula County Medical Center, OH, Point in Space Coordinates
(Lat. 41°52′47″ N, long. 80°46′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Northeast Ohio Regional Airport, and within 2 miles each side of the 259° bearing from the Northeast Ohio Regional Airport extending from the 6.5-mile radius to 9.6 miles west of the Northeast Ohio Regional Airport, and within a 6-mile radius of the Point in Space serving the Ashtabula County Medical Center.

Issued in Fort Worth, Texas, on February 24, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–04246 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1261

[Docket No. CPSC–2017–0044]

Safety Standard for Clothing Storage Units; Notice of Opportunity for Oral Presentation of Comments

AGENCY: Consumer Product Safety Commission.

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

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) will be providing an opportunity for interested parties to present oral comments on the notice of proposed rulemaking (NPR) the Commission issued regarding a safety standard for clothing storage units (CSUs). Any oral comments will be part of the rulemaking record.

DATES: The meeting will begin at 10 a.m. Eastern Standard Time (EST) on April 6, 2022, via webinar. All attendees should pre-register for the webinar online at: *https://attendee.gotowebinar.com/register/4382433867276269835.* Any individual interested in making an oral presentation must register for the webinar and submit a request to make an oral presentation to the Division of the Secretariat, along with the written text of the oral presentation, and such requests must be received no later than 5 p.m. EST on March 23, 2022. All other individuals who wish to attend the meeting should register before the start of the hearing.

ADDRESSES: The hearing will be held via webinar. Attendance is free of charge. Submit requests to make oral presentations and provide the written text of oral presentations to the Division of the Secretariat, with the caption, ''Clothing Storage Units NPR; Oral Presentation,'' by email to *cpsc-os@cpsc.gov,* or by mail to the Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814. Detailed instructions for those making oral presentations and other attendees will be made available on the CPSC public calendar.

FOR FURTHER INFORMATION CONTACT: For information about the subject matter of this hearing, contact Kirsten Talcott, Project Manager, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; phone: (301) 987–2311, email: *KTalcott@cpsc.gov.* For information about the procedure to make an oral presentation, contact Alberta E. Mills, Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7479, *cpsc-os@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background [1]

On February 3, 2022, the Commission published an NPR in the **Federal Register**, proposing to issue a safety standard for CSUs under the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089), and seeking written comments. 87 FR 6246. The proposed rule seeks to address the risk of injuries and death, particularly to children, associated with CSUs tipping over, by requiring CSUs to be tested for stability and to exceed minimum stability requirements; to be marked and labeled with safety information; and to bear a hang tag providing performance and technical data about the stability of the CSU. The proposed rule would apply to ''clothing storage units,'' which the NPR proposes to define as follows:

> Clothing storage unit means a freestanding furniture item, with drawer(s) and/or door(s), that may be reasonably expected to be used for storing clothing, that is greater than or equal to 27 inches in height, and with a total functional volume of the closed storage greater than 1.3 cubic feet and greater than the sum of the total functional volume of the open storage and the total volume of the open space. Common names for clothing storage units include, but are not limited to: Chests, bureaus, dressers, armoires, wardrobes, chests of drawers, drawer chests, chifforobes, and door chests. Whether a product is a clothing storage unit depends on whether it meets this definition. Some products that generally do not meet the criteria in this definition and, therefore, likely are not considered clothing storage units are: Shelving units, office furniture, dining room furniture, laundry hampers, built-in closets, and single-compartment closed rigid boxes (storage chests).

The NPR proposes to exempt clothes lockers and portable storage closets from the standard. The NPR is available at: *https://www.govinfo.gov/content/pkg/FR-2022-02-03/pdf/2022-01689.pdf,* and CPSC staff's briefing package for the NPR is available at: *https://www.cpsc.gov/s3fs-public/Proposed%20Rule-%20Safety%20Standard%20for%20Clothing%20Storage%20Units.pdf.*

II. The Public Hearing

The Administrative Procedure Act (5 U.S.C. 551–562) and section 9 of the CPSA require the Commission to provide interested parties with an opportunity to submit ''written data, views, or arguments'' regarding a proposed rule. 5 U.S.C. 553(c); 15 U.S.C. 2058(d)(2). The NPR invited such written comments. In addition, section 9 of the CPSA requires the Commission to provide interested parties ''an opportunity for oral presentation of data, views, or arguments.'' 15 U.S.C. 2058(d)(2). The Commission must keep a transcript of such oral presentations. *Id.* In accordance with this requirement, the Commission is providing a forum for oral presentations concerning the proposed standard for CSUs.

To request the opportunity to make an oral presentation, see the information under the **DATES** and **ADDRESSES** sections of this notice. Participants should limit their presentations to approximately 10 minutes, excluding time for questioning by the Commissioners or CPSC staff. To avoid duplicate presentations, groups should designate a spokesperson, and the Commission reserves the right to limit presentation times or impose further restrictions, as necessary.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–04217 Filed 2–28–22; 8:45 am]

BILLING CODE 6355–01–P

[1] The Commission voted 4–0 to publish this notice.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–114209–21]

RIN 1545–BQ17

User Fees Relating to Enrolled Agents and Enrolled Retirement Plan Agents

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations relating to user fees for enrolled agents and enrolled retirement plan agents. This document also contains a notice of public hearing on the proposed regulations. The proposed regulations increase the renewal user fee for enrolled retirement plan agents from $67 to $140. In addition, the proposed regulations increase both the enrollment and renewal user fee for enrolled agents from $67 to $140. The proposed regulations affect individuals who are or apply to become enrolled agents and individuals who are enrolled retirement plan agents. The Independent Offices

Appropriation Act of 1952 authorizes charging user fees.

DATES: Electronic or written comments must be received by May 11, 2022. The public hearing is being held by teleconference on May 9, 2022 at 10 a.m. EST. Requests to speak and outlines of topics to be discussed at the public hearing must be received by May 2, 2022. If no outlines are received by May 2, 2022, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. EST on May 9, 2022. The telephonic hearing will be made accessible to people with disabilities. Requests for special assistance during the telephonic hearing must be received by May 6, 2022.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–114209–21). Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process comments that are submitted on paper or through the mail. Any comments submitted on paper will be considered to the extent practicable. The IRS will publish any comments submitted electronically, and to the extent practicable comments submitted on paper, to the public docket. Send submissions to: CC:PA:LPD:PR (REG–114209–21), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

For those requesting to speak during the hearing, send an outline of topic submissions electronically via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–114209–21).

Individuals who want to testify (by telephone) at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–114209–21 and the word TESTIFY. For example, the subject line may say: Request to TESTIFY at Hearing for REG–114209–21. The email should include a copy of the speaker's public comments and outline of topics. Individuals who want to attend (by telephone) the public hearing must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–114209–21 and the word ATTEND. For example, the subject line may say: Request to ATTEND Hearing for REG–114209–21. To request special assistance during the telephonic hearing, contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–5177 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mark Shurtliff at (202) 317–6845; concerning cost methodology, Michael A. Weber at (202) 803–9738; concerning submission of comments, the public hearing, and the access code to attend the hearing by telephone, Regina Johnson at (202) 317–5177 (not toll-free numbers) or *publichearings@IRS.gov.*

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to 26 CFR part 300 regarding user fees.

A. Enrolled Agents and Enrolled Retirement Plan Agents

Section 330 of Title 31 of the United States Code authorizes the Secretary of the Treasury to regulate the practice of representatives before the Department of the Treasury (Treasury Department) and requires that an individual seeking to practice demonstrate the necessary qualifications, competency, and good character, and reputation. The rules governing practice before the IRS are published in 31 CFR, Subtitle A, part 10, and reprinted as Treasury Department Circular No. 230 (Circular 230).

Section 10.4(a) of Circular 230 authorizes the IRS to grant enrollment as enrolled agents to individuals who demonstrate special competence in tax matters by passing a written examination, the Enrolled Agent Special Enrollment Examination (EA SEE), and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230.

Section 10.4(b) of Circular 230 authorizes the IRS to grant status as enrolled retirement plan agents to individuals who demonstrate special competence in qualified retirement plan matters by passing a written examination, the Enrolled Retirement Plan Agent Special Enrollment Examination (ERPA SEE), and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230. The IRS stopped offering the ERPA SEE as of February 12, 2016, and no longer accepts applications for new enrollment as an enrolled retirement plan agent. Individuals who were already enrolled as enrolled retirement plan agents may continue to apply for renewal of their status.

Section 10.4(d) also authorizes the IRS to grant enrollment as an enrolled agent or an enrolled retirement plan agent to a qualifying former IRS employee by virtue of past IRS service and technical experience if the former employee has not engaged in any conduct that would justify suspension or disbarment under the provisions of Circular 230 and meets certain other requirements. Application for enrollment as an enrolled agent based on former employment with the IRS must be made within three years from the date of separation from that employment and does not require passing the EA–SEE. When the IRS discontinued offering the ERPA–SEE necessary for enrollment as an enrolled retirement plan agent for individuals without IRS work experience, effective February 12, 2016, the IRS stopped granting individuals enrollment as enrolled retirement plan agents by virtue of past service and technical experience in the IRS.

Once eligible for enrollment as an enrolled agent, whether by examination or former employment with the IRS, an individual must file an application for enrollment with the IRS and currently pay a $67 nonrefundable user fee. To maintain active enrollment and practice before the IRS, an individual who has been enrolled as an enrolled agent or enrolled retirement plan agent must file an application to renew enrollment every three years and currently pay a $67 nonrefundable user fee. 31 CFR 10.6(d).

The IRS Return Preparer Office (RPO) is responsible for certain matters related to authority to practice before the IRS, including acting on applications for enrollment and renewal of enrolled agents and for renewal of enrolled retirement plan agents. 31 CFR 10.1. As a condition for enrollment as an enrolled agent, the RPO may conduct a federal tax-compliance check to determine whether an applicant has filed all required tax returns and has no outstanding federal tax debts and a suitability check to determine whether an applicant has engaged in any conduct that would justify suspending or disbarring any practitioner under Circular 230. 31 CFR 10.5(d). As a condition for renewal, enrolled agents and enrolled retirement plan agents must certify completion of the continuing education requirements. 31 CFR 10.6(e).

As part of its responsibility for administering the enrollment and renewal program, RPO determines whether applicants have met the above requirements. 31 CFR 10.6(j)(1). An applicant who is denied enrollment as an enrolled agent for failure to pass a tax-compliance check may reapply if the applicant becomes current with respect to the applicant's tax liabilities. 31 CFR 10.5(d)(2). Applicants who fail to meet the continuing education and fee payment requirements for renewal receive from RPO a notice that states the basis for RPO's determination of noncompliance and provides an opportunity to cure the failure. 31 CFR 10.6(j)(1).

B. User Fee Authority

The Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) authorizes each agency to promulgate regulations establishing the charge for services provided by the agency. The IOAA states that the services provided by an agency should be self-sustaining to the extent possible. 31 U.S.C. 9701(a). The IOAA provides that user fee regulations are subject to policies prescribed by the President, which are currently set forth in the Office of Management and Budget (OMB) Circular A–25 (OMB Circular), 58 FR 38142 (July 15, 1993).

Section 6a(1) of OMB Circular A–25 states that when a service offered by an agency provides special benefits to identifiable recipients beyond those accruing to the general public, the agency is to charge a user fee to recover the full cost of providing the service. Section 8e of OMB Circular A–25 requires agencies to review user fees biennially and update the fees as necessary to reflect changes in the cost of providing the underlying services. During the biennial review, an agency must calculate the full cost of providing each service, taking into account all direct and indirect costs to any part of the U.S. government. Under section 6d(1) of OMB Circular A–25, the full cost of providing a service includes, but is not limited to, an appropriate share of salaries, medical insurance and retirement benefits, management costs, and physical overhead and other indirect costs, including rents, utilities, and travel, associated with providing the service.

An agency should set the user fee at an amount that recovers the full cost of providing the service unless the agency requests, and the OMB grants, an exception to the full-cost requirement. Under section 6c(2) of OMB Circular A–25, the OMB may grant exceptions when the cost of collecting the fees would represent an unduly large part of the fee for the activity or when any other condition exists that, in the opinion of the agency head, justifies an exception. When the OMB grants an exception, the agency does not collect the full cost of providing the service and must fund the remaining cost of providing the service from other available funding sources. Consequently, the agency subsidizes the cost of the service to the recipients of reduced-fee services even though the service confers a special benefit on those recipients who would otherwise be required to pay the full cost of receiving the benefit as provided for by the IOAA and OMB Circular A–25.

C. Enrollment and Renewal User Fees for the Enrolled Agent and Renewal User Fee for the Enrolled Retirement Plan Agent

As discussed in section A of this preamble, an individual who has been granted enrollment as an enrolled agent or an enrolled retirement plan agent may practice before the IRS. The IRS confers benefits on individuals who are enrolled agents or enrolled retirement plan agents beyond those that accrue to the general public by allowing them to practice before the IRS. Because the ability to practice before the IRS is a special benefit, the IRS charges a user fee to recover the full cost associated with administering the program for enrollment and renewal of enrolled agents and renewal of enrolled retirement plan agents. Final regulations (TD 9858) published in the **Federal Register** (84 FR 20801–01) on May 13, 2019, established the current $67 fee per enrollment or renewal of enrollment. At that time the Treasury Department and the IRS determined that a $67 user fee would recover the full direct and indirect costs the government would incur to administer the enrollment and renewal program.

As required by the IOAA and the OMB Circular, the RPO completed its 2021 biennial review of the enrollment and renewal user fees associated with enrolled agents and enrolled retirement plan agents. As discussed in section D of this preamble, during its review the RPO took into account the increase in labor, benefits, and overhead costs incurred in connection with providing services to individuals who enroll or renew enrollment as enrolled agents and enrolled retirement plan agents since the user fee was last changed in 2019. The increase took into account additional staffing that allows RPO to provide a higher quality of service to individuals seeking to enroll or renew enrollment. The RPO also took into account a re-allocation of certain labor costs in their methodology. The RPO determined that the full cost of administering the program for enrolled agents and enrolled retirement plan agents has increased from $67 to $140 per application for enrollment or renewal. The proposed fee complies with the directive in the OMB Circular to recover the full cost of providing a service that confers special benefits on identifiable recipients beyond those accruing to the general public.

D. Calculation of User Fees Generally

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of processing an application for enrollment or renewal. The Federal Accounting Standards Advisory Board (FASAB) is the body that establishes GAAP that apply for federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), which is available at *http://files.fasab.gov/pdffiles/2017_fasab_handbook.pdf.* The Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government.* SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of federal programs, and the methodology below is in accordance with SFFAS No. 4.

1. Cost Center Allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost-accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost-accounting system is called a cost center. Cost centers are usually separate offices that are distinguished by subject-matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost-accounting system and allocated to that cost center. The costs allocated to a cost center are the direct costs for the cost center's activities in addition to allocated overhead. Some cost centers work on different services across the IRS and are not fully devoted to the services for which the IRS charges user fees.

2. Cost Estimation of Direct Costs

The IRS uses various cost-measurement techniques to estimate the cost attributable to administering the program for enrollment and renewal of enrolled agents and renewal of enrolled retirement plan agents. These

techniques include using various timekeeping systems to measure the time required to accomplish activities, or using information provided by subject-matter experts on the time devoted to a service or activity. To determine the labor and benefits costs incurred to administer the enrollment and renewal program, the IRS estimated the number of full-time employees required to conduct activities related to administering the program. The number of full-time employees is based on both current employment numbers and future hiring estimates. Direct costs are incurred by the RPO and include direct costs for enrollment and renewal submission processing; tax compliance and background checks; continuing education and testing-related activities; communications, which include a toll-free helpline; and other oversight and support costs. Other direct costs associated with administering the program include travel, training and supplies.

3. Overhead

When the indirect cost of a service or activity is not specifically identified from the cost accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost. Overhead is an indirect cost of operating an organization that cannot be immediately associated with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

- General management and administrative services of sustaining and supporting organizations.
- Facilities management and ground maintenance services (security, rent, utilities, and building maintenance).
- Procurement and contracting services.
- Financial management and accounting services.
- Information technology services.
- Services to acquire and operate property, plants and equipment.
- Publication, reproduction, and graphics and video services.
- Research, analytical, and statistical services.
- Human resources/personnel services.
- Library and legal services.

To calculate the overhead allocable to a service, the IRS multiplies an overhead rate by the labor and benefits costs. The IRS calculates the overhead rate annually based on cost elements underlying the Statement of Net Cost included in the IRS annual financial statements. The financial statements are audited by the Government Accountability Office. The overhead rate is the ratio of the IRS's indirect costs divided by the direct costs of its organizational units. Indirect costs are labor, benefits, and non-labor costs (excluding IT related to taxpayer services, enforcement, and business system modernization) from the supporting and sustaining organizational units. Direct costs are the labor, benefits, and non-labor costs for the IRS's organizational units that interact directly with taxpayers.

For this program user fee review, the Fiscal Year (FY) 2021 rate of 58.83 percent was used. The rate was calculated based on the FY 2020 Statement of Net Cost as follows:

Total Indirect Costs	.....	$4,274,512,375
Total Direct Costs	÷	$7,265,460,800
Overhead Rate	.....	58.83%

E. Calculation of User Fee for Enrolled Agent Enrollment and Renewal and Enrolled Retirement Plan Agent Renewal

1. Cost Estimate

The IRS projected the estimated costs of direct labor and benefits based on the actual salary and benefits of employees who administer the enrollment and renewal program, reduced to reflect the percentage of time each individual spends administering the program. RPO's managers estimated the percentage of time these employees devote to administering the program based on their knowledge of actual program assignments. Fourteen employees work full-time on administering enrollment and renewal program-related activities. Additional staffing costs include oversight and support associated with these functions.

The baseline for the labor and benefits was the actual salary and benefits for FY 2021. From this baseline, the IRS estimated the direct labor and benefits costs over the next three years using an inflation factor for FYs 2022, 2023, and 2024. The IRS used a three-year projection because the increase in future labor and benefits costs are reliably predictable representations of the actual costs that will be incurred by the RPO. These estimated labor and benefits costs were then reduced to reflect the percentage of time each individual devoted to the program and are set out in the following table:

Year	Estimated direct labor and benefit costs
2022	$2,115,293.00
2023	2,173,464.00
2024	2,233,234.00
Total	6,521,991.00

The IRS estimated $15,000 in additional direct costs for each year for travel, training, and supplies.

The total estimated direct costs for the three years is $6,566,991. After estimating the total direct costs, the IRS applied the FY 2021 overhead rate of 58.83 percent to the estimated direct costs to calculate indirect costs of $3,863,360, for a total cost for the three-year period of $10,430,351.

The calculation of the total costs of the program for 2022 through 2024 is below:

Direct Costs	.....	$6,566,991
Overhead at 58.83%	+	3,863,360
Total Program Costs	.....	10,430,351

2. Volume of Applications

The number of enrollments and renewals processed during FYs 2018, 2019, and 2020 were 22,703; 29,350; and 22,367, respectively. The total number for the three years was 74,420. The IRS used this historical three-year volume to estimate the number of applications it expects to process in FYs 2022, 2023, and 2024.

3. Unit Cost Per Application

To arrive at the total cost per application, the IRS divided the estimated three-year total of program costs by the total volume of applications expected over the same three-year period to determine a unit cost per application of $140, as shown below:

Total Program Cost	.....	$10,430,351
Volume	÷	74,420
Unit Cost	.....	140

Special Analyses

Regulatory Planning and Review

This regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities.

Only individuals, not businesses, can be enrolled agents or enrolled retirement plan agents. Accordingly, the user fee primarily affects individuals who are enrolled agents, apply to become enrolled agents, or are enrolled retirement plan agents. The Treasury Department and the IRS estimate that approximately 24,807 individuals will apply annually for enrollment as an enrolled agent, renewal as an enrolled agent, or renewal as an enrolled retirement plan agent.

Since individuals are not ''small entities'' for purposes of the Regulatory Flexibility Act, any economic impact of the user fee on small entities generally will occur only when an enrolled agent or enrolled retirement plan agent owns a small business or when a small business employs enrolled agents or enrolled retirement plan agents and reimburses them for their renewal fees. Therefore, a substantial number of small entities is not likely to be affected. Further, the economic impact on any small entities affected would be limited to paying the $73 difference in cost between the $140 user fee and the previous $67 user fee (for each enrolled agent or enrolled retirement plan agent that a small entity employs and pays for), which is unlikely to present a significant economic impact. The total economic impact of this regulation is thus approximately $1,810,911 annually, which is the product of the approximately 24,807 individuals and the $73 increase in the fee. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable, any paper comments submitted, will be made available at *www.regulations.gov* or upon request.

A public hearing is being held by teleconference on May 11, 2022, beginning at 10 a.m. EST unless no outlines are received by May 2, 2022.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to comment by telephone at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by May 2, 2022 as prescribed in the preamble under the **ADDRESSES** section.

A period of 10 minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available at *www.regulations.gov,* search IRS and REG–114209–21. Copies of the agenda will also be available by emailing a request to *publichearings@irs.gov.* Please put ''REG–114209–21 Agenda Request'' in the subject line of the email.

Announcement 2020–4, 2020–17 I.R.B. 667 (April 20, 2020), provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal author of these regulations is Mark Shurtliff, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

PART 300—USER FEES

■ **Paragraph. 1.** The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

■ **Par. 2.** Section 300.5 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.5 Enrollment of enrolled agent fee.

* * * * *

(b) *Fee.* The fee for initially enrolling as an enrolled agent with the IRS is $140.

* * * * *

(d) *Applicability date.* This section is applicable beginning [the date that is 30 days after these regulations are published as final regulations in the **Federal Register**].

■ **Par. 3.** Section 300.6 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.6 Renewal of enrollment of enrolled agent fee.

* * * * *

(b) *Fee.* The fee for renewal of enrollment as an enrolled agent with the IRS is $140.

* * * * *

(d) *Applicability date.* This section is applicable beginning [the date that is 30 days after these regulations are published as final regulations in the **Federal Register**].

■ **Par. 4.** Section 300.10 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.10 Renewal of enrollment of enrolled retirement plan agent fee.

* * * * *

(b) *Fee.* The fee for renewal of enrollment as an enrolled retirement plan agent with the IRS is $140.

* * * * *

(d) *Applicability date.* This section is applicable beginning [the date that is 30 days after these regulations are

published as final regulations in the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2022–04303 Filed 2–25–22; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0026]

RIN 1625–AA00

Safety Zone; Lady Liberty Sharkfest Swim, Upper New York Harbor, Liberty Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Upper New York Bay, in the vicinity of Liberty Island, within a 100-yard radius of each swimmer during the Lady Liberty Sharkfest Swim on July 16, 2022. The safety zone is needed to protect the maritime public and event participants from the hazards associated with swim events taking place in a high vessel traffic area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New York 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 March 31, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0026 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 MST1 L. Gutierrez, Waterways Management Division, U.S. Coast Guard, telephone 718–354–4352, email *D01-SMB-SecNY-Waterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Enviro-Sports Productions Inc. notified the Coast Guard that it will be conducting the Lady Liberty Sharkfest Swim on July 16, 2022, from 7:30 a.m. to 8:30 a.m. with approximately 200 participants and several support vessels. Participants will swim between Liberty Island, New York and Morris Canal, New Jersey. The Captain of the Port New York (COTP) has determined that swimming events in close proximity to marine traffic pose significant risk to public safety and property. The combination of increased numbers of recreation vessels, congested waterways, and large numbers of swimmers in the water has the potential to result in serious injuries or fatalities. In order to protect the safety of all waterway users including event participants and spectators, this proposed rule would establish temporary safety zones for the duration of the swim event.

This rule would prevent vessels from entering into, transiting through, mooring or anchoring within a 100-yard radius of each participating swimmer during the period of enforcement unless authorized by the COTP, or the designated representative.

The purpose of this rulemaking is to ensure the safety of vessels, event participants and the navigable waters within a 100 yard radius of swimmers until the conclusion of the scheduled swim event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The Coast Guard is proposing to establish a temporary safety zone within 100 yards of each participants for the swim event on the navigable waters of the Upper New York Bay located between Liberty Island, New York and Morris Canal, New Jersey. A portion of the navigable waters will be closed during the effective period to all vessel traffic except patrol crafts. The swim event will occur from approximately 7:30 a.m. until approximately 8:30 a.m. on July 16, 2022. In order to coordinate the safe movement of vessels within the area and to ensure that the area is clear of unauthorized persons and vessels before, during, and immediately after the swim event, this zone will be effective from approximately 7 a.m. until approximately 10 a.m. on July 16, 2022.

Vessels will still be able to transit the surrounding area and may be authorized to transit through the proposed safety zone with the permission from the COTP or the designated representative. The COTP does not anticipate any negative impact on vessel traffic due to this proposed safety zone. 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 proposed rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The Coast Guard's enforcement of this proposed safety zone will be of short duration, lasting only 3 hours. The proposed safety zone will restrict access to only a small portion of the navigable waterways of the Upper New York Bay. Vessels will be able to navigate around the proposed safety zone. Furthermore, vessels may be authorized to transit through the proposed safety zone with the permission of the COTP. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the proposed rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

have a significant economic impact on a substantial number of small entities.

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone lasting approximately 3 hours that will prohibit entry within 100 yards of participating swimmers for the Lady Liberty Sharkfest Swim. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov*. To do so, go to *https://www.regulations.gov,* type USCG–2022–0026 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 proposed rule 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 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01.0026 to read as follows:

§ 165. T01–0026 Safety Zone; Lady Liberty Sharkfest Swim, Upper New York Bay, Liberty Island, NY

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper New York Harbor, NY within a 100 yard radius of each participating swimmer during the Lady Liberty Sharkfest Swim.

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

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, no person or vessel may enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF channel 16 or by phone at (718) 354–4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7 a.m. through 10 a.m. on July 16, 2022.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notice to Mariners of any changes in the planned schedule.

Dated: February 15, 2022.

Z. Merchant,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2022–04279 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AD44

Land Uses; Special Uses; Annual Programmatic Administrative Fee for Communications Use Authorizations; Reopening of Comment Period

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Forest Service (Agency), U.S. Department of Agriculture, published a proposed rule in the **Federal Register** on December 22, 2021, initiating a 60-day comment period on the proposed rule to amend existing regulations to charge a statutorily required annual programmatic administrative fee for new and existing communications use authorizations to cover the costs of administering the Agency's communications use program. The comment period for the original document closed February 22, 2022. The Agency is reopening the comment period for an additional 30 days from the date of publication of this document.

DATES: The comment period for the proposed rule published at 86 FR 72540 on December 22, 2021, is reopened. Comments must be received in writing by March 31, 2022.

ADDRESSES: Comments may be submitted via one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for sending comments.

2. *Mail:* Director, Lands & Realty Management Staff, 201 14th Street SW, Washington, DC 20250–1124.

3. *Hand Delivery:* Director, Lands & Realty Management Staff, 1st Floor Southeast, 201 14th Street SW, Washington, DC 20250–1124.

All timely comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may review comments at the Office of the Director, Lands & Realty Management, 1st Floor Southeast, Sidney R. Yates Federal Building, 201 14th Street SW, Washington, DC, during normal business hours. Visitors are encouraged to call ahead at 202–205–3563 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Joey Perry, Lands & Realty Management Staff, 530–251–3286, *joey.perry@usda.gov.* Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours per day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The proposed rule would amend existing regulations to charge a statutorily required annual programmatic administrative fee for new and existing communications use authorizations to cover the costs of administering the Agency's communications use program. To provide further opportunity for the public to comment, the Agency is reopening the comment period on the proposed rule for an additional 30 days.

The proposed rule can be found at *https://www.federalregister.gov/documents/2021/12/22/2021-27681/land-uses-special-uses-annual-programmatic-administrative-fee-for-communications-use-authorizations.* After the comment period closes, the Forest Service will consider timely and relevant comments in the development of the final rule.

Dated: February 24, 2022.

Meryl Harrell,

Deputy Under Secretary, Natural Resources & Environment.

[FR Doc. 2022–04254 Filed 2–24–22; 11:15 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2021–0672; FRL–9558–01–R1]

Air Plan Approval; New Hampshire; Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of New Hampshire. On July 29, 2021, the State submitted its 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan (LMP) for the Boston-Manchester-Portsmouth (Portsmouth) area. EPA is proposing to approve the Portsmouth area LMP because it provides for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year portion of the

maintenance period. The effect of this action will be to make certain commitments related to maintenance of the 1997 ozone NAAQS in the Portsmouth maintenance area part of the New Hampshire SIP and therefore federally enforceable.

DATES: Written comments must be received on or before March 31, 2022.

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

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109—3912, tel. (617) 918–1628, email *rackauskas.eric@epa.gov.*

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

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I. Summary of EPA's Action

Under the CAA, EPA is proposing to approve a Limited Maintenance Plan (LMP) for the Boston-Manchester-Portsmouth (Portsmouth) maintenance area for the 1997 ozone NAAQS, submitted as a revision to the New Hampshire State Implementation Plan (SIP) on July 29, 2021. The Portsmouth area 8-hour ozone nonattainment area includes 52 cities and towns with a combined population of 729,071 in Hillsborough, Merrimack, Rockingham and Strafford counties, in the southeastern-most portion of the state. On June 15, 2004, the Portsmouth area was designated as nonattainment for the 1997 ozone NAAQS. On March 4, 2013, the area was redesignated to attainment with that standard.

The Portsmouth area's LMP for the 1997 ozone NAAQS submitted by the New Hampshire Department of Environmental Services (DES) is designed to maintain the 1997 ozone NAAQS within these areas through the end of the second ten-year period of the maintenance period. We are proposing to approve the plan because it meets all applicable requirements under CAA sections 110 and 175A.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of pollution sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

Ozone exposure also has been associated with increased susceptibility to respiratory infections, medication use, doctor and emergency department visits and hospital admissions for individuals with lung disease. Ozone exposure also increases the risk of premature death from heart or lung disease. Children are at increased risk from exposure to ozone because their lungs are still developing and they are more likely to be active outdoors, which increases their exposure.[1]

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).[2] The EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. EPA determined that the 8-hour standard would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a preexisting respiratory disease, such as asthma.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004, EPA designated the Southeast New Hampshire area as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area

[1] See ''Fact Sheet, Proposal to Revise the National Ambient Air Quality Standards for Ozone,'' January 6, 2010 and 75 FR 2938 (January 19, 2010).

[2] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to the EPA a request to be redesignated to attainment, referred to as a ''maintenance area''.[3] One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation and must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional ten years. CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.[4] The Calcagni memo provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). EPA clarified in three subsequent guidance memoranda that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that the area's design value [5] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future.[6] EPA refers to this streamlined demonstration of maintenance as a Limited Maintenance Plan (LMP). EPA has interpreted CAA section 175A as permitting this option because section 175A of the Act defines few specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP, that have an approved LMP, have rarely, if ever, experienced subsequent violations of the NAAQS. As noted in the LMP guidance memoranda, states seeking an LMP must still submit the other maintenance plan elements outlined in the Calcagni memo, including: An attainment emissions inventory, provisions for the continued operation of the ambient air quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their section 175A maintenance plan as a revision to their state implementation plan, with all attendant notice and comment procedures.

While the LMP guidance memoranda were originally written with respect to certain NAAQS,[7] EPA has extended the LMP interpretation of section 175A to other NAAQS and pollutants not specifically covered by the previous guidance memos.[8] In this case, EPA is proposing to approve New Hampshire's LMP because the State has made a showing, consistent with EPA's prior LMP guidance, that the area's ozone concentrations are well below the 1997 ozone NAAQS and have been historically stable. New Hampshire DES has submitted this LMP for the Southeast New Hampshire 1997 ozone NAAQS areas to fulfill the second maintenance plan requirement in the Act. Our evaluation of the Southeast New Hampshire area 1997 ozone NAAQS LMP is presented below.

On March 2, 2012, New Hampshire DES submitted to EPA a request to redesignate the Portsmouth nonattainment areas to attainment for the 1997 ozone NAAQS. New Hampshire DES also provided EPA with additional information on September 21, 2012. This submittal included a plan to provide for maintenance of the 1997 ozone NAAQS in the Portsmouth nonattainment area through 2012 as a revision to the New Hampshire SIP. EPA approved the maintenance plan for the Portsmouth nonattainment area and the State's request to redesignate the Portsmouth nonattainment area to attainment for the 1997 ozone NAAQS on January 31, 2013 (78 FR 6741).

In conjunction with our approval of the Portsmouth nonattainment areas 1997 ozone Maintenance Plan covering the first 10-year maintenance period, we approved various regulatory provisions adopted by the State providing for the continued implementation of the control measures relied upon for attainment, and for the authority for state agencies to implement contingency measures should the area violate the standard again during this period.

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and stated that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[9] In *South Coast Air Quality Management District* v. *EPA,* the D.C. Circuit vacated EPA's interpretation that second maintenance plans were not required for 1997 NAAQS maintenance areas because of the revocation of that standard. *South Coast,* 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with 1997 ozone NAAQS maintenance areas still must comply with the requirement to submit maintenance plans for the second maintenance period. Accordingly, on July 29, 2021, New Hampshire submitted second maintenance plans for the Portsmouth area that show that the area is expected to remain in attainment with the 1997 ozone NAAQS through the last year of the second 10-year maintenance period, *i.e.,* through the end of the full 20-year maintenance period.

III. New Hampshire's SIP Submittal

On July 29, 2021, New Hampshire DES submitted the Portsmouth area LMP to the EPA as a revision to the New Hampshire SIP. New Hampshire DES

[3] Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[4] Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' September 4, 1992 (Calcagni memo).

[5] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[6] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

[7] The prior memoranda addressed: unclassifiable areas under the 1-hour ozone NAAQS, nonattainment areas for the PM_{10} (particulate matter with an aerodynamic diameter less than 10 microns) NAAQS, and nonattainment areas for the carbon monoxide NAAQS.

[8] See, *e.g.,* 79 FR 41900 (July 18, 2014) (Approval of second ten-year LMP for Grant County 1971 SO_2 maintenance area).

[9] *See* 80 FR 12315 (March 6, 2015).

also provided additional information to EPA on December 23, 2021. The submittal includes the LMP and attachments. The plan and attachments include air quality data, emission inventory information, air quality monitoring information, and documentation of notice, hearing, and public participation.

IV. EPA's Evaluation of New Hampshire's SIP Submittal

A. Procedural Requirements

CAA section 110(a)(2) and 110(l) require revisions to a SIP to be adopted by a state after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of a notice by prominent advertisement in the relevant geographic area of the proposed SIP revisions, at least a 30-day public comment period, and an opportunity for a public hearing.

New Hampshire DES published a notice of a 30-day comment period and notice for a public hearing for the LMP for the Portsmouth maintenance areas on the State's website. New Hampshire DES received no public comments, either written or oral. New Hampshire DES then submitted the Portsmouth area 1997 Ozone NAAQS LMP to EPA as a revision to the New Hampshire SIP. The process followed by New Hampshire DES in adopting the Portsmouth area 1997 Ozone NAAQS LMP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

B. Substantive Requirements

EPA has reviewed the Portsmouth maintenance area 1997 Ozone NAAQS LMP, which is designed to maintain the 1997 ozone NAAQS within the Portsmouth area through the end of the 20-year period beyond redesignation, as required under CAA section 175A(b). The following is a summary of EPA's interpretation of the requirements [10] and EPA's evaluation of how each requirement is met.

1. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A state should develop this inventory consistent with EPA's most recent guidance on emissions inventory development. For ozone, the inventory should be based on emissions of VOCs and NO_X, as these pollutants are precursors to ozone formation. The Portsmouth area LMP includes an ozone attainment inventory for the Portsmouth area that reflects total emissions for every National Emissions Inventory (NEI) from 1996–2017. Tables 1 and 2 below contain the NEI data submitted by the State. The NEI is updated every three years. Additionally, though not technically required for a LMP, the tables include modeled emissions projections for 2023 and 2028. EPA notes that the modeled VOC emission estimates show a slight increase compared to actual measured emissions from 2017 NEI data, with a 12% increase from 2017 to 2023 for area sources and a 7% increase in non-road mobile sources for this same time. These are modeled projections, not actual emissions, and do not interfere with the State demonstrating an overall downward trend in total emissions during the maintenance period which continues in 2028.

TABLE 1 NITROGEN OXIDES (NO_X)
[tons per year]

Category	1996	1999	2002	2005	2008	2011	2014	2017	2023	2028
Point	20,690	16,170	9,786	12,068	6,969	5,887	4,343	2,691	3,362	2,975
Area	13,506	5,724	11,259	11,259	6,874	5,758	11,894	10,544	4,244	3,900
Non-Road Mobile	10,265	8,547	10,015	9,246	7,116	6,532	5,565	4,262	4,808	4,564
On-Road Mobile	45,984	41,873	38,799	29,750	29,308	17,243	16,292	11,036	6,355	4,539
Total	90,444	72,314	69,859	62,323	50,267	35,421	38,093	28,533	18,769	15,978

TABLE 2 VOLATILE ORGANIC COMPOUNDS (VOC)
[tons per year]

Category	1996	1999	2002	2005	2008	2011	2014	2017	2023	2028
Point	5,421	2,991	1,599	1,104	783	652	441	757	637	625
Area	38,766	55,921	61,554	36,105	23,335	20,352	18,560	17,017	19,029	18,955
Non-Road Mobile	18,177	18,468	21,950	21,255	19,415	15,094	12,598	8,510	9,197	8,812
On-Road Mobile	26,419	24,511	21,681	18,927	11,811	9,417	9,168	6,804	4,846	3,716
Total	88,783	101,891	106,784	77,391	55,344	45,515	40,767	33,088	33,709	32,108

Based on our review of the methods, models, and assumptions used by New Hampshire DES to develop the VOC and NO_X estimates, we find that the Portsmouth area 1997 8-Hour Ozone NAAQS LMP includes comprehensive, reasonably accurate inventories of actual ozone precursor emissions and conclude that the plan's inventories are acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

2. Maintenance Demonstration

The maintenance plan demonstration requirement is considered to be satisfied in a LMP if the state can provide sufficient weight of evidence indicating that air quality in the area is well below the level of the standard, that past air quality trends have been shown to be stable, and that the probability of the area experiencing a violation over the second 10-year maintenance period is low.[11] These criteria are evaluated below with regard to the Portsmouth area.

a. Evaluation of ozone air quality levels.

[10] See Calcagni memo.

[11] ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

To attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily maximum 8-hour average ozone concentrations (design value) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. Consistent with prior guidance, EPA believes that if the most recent air quality design value for the area is at a level that is well below the NAAQS (*e.g.,* below 85% of the standard, or in this case below 0.071 ppm), then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period.[12] Such a demonstration assumes continued applicability of PSD requirements, any control measures already in the SIP, and that Federal measures will remain in place through the end of the second 10-year maintenance period, absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance.[13]

Table 3 presents the design values for each monitor in the Portsmouth area over the 2017–2019 period. As shown in Table 3, all sites have been well below the level of the 1997 ozone NAAQS and the most current design value is below the level of 85% of the NAAQS, consistent with prior LMP guidance.

TABLE 3 OZONE NAAQS DESIGN VALUES (DV)

[Parts per billion, ppb]

Design value period	Hillsborough County	Merrimack County	Rockingham County
2004–2006	75	72	75
2005–2007	76	72	77
2006–2008	73	70	76
2007–2009	71	68	74
2008–2010	68	66	69
2009–2011	68	65	66
2010–2021	68	65	66
2011–2013	67	64	67
2012–2014	68	63	68
2013–2015	66	62	66
2014–2016	66	61	66
2015–2017	65	63	65
2016–2018	65	62	65
2017–2019	62	60	62

Therefore, the Portsmouth area demonstration that the areas will maintain the NAAQS based on the long record of monitored ozone concentrations that attain the NAAQS, together with the continuation of existing VOC and NO_X emissions control programs, adequately provide for the maintenance of the 1997 ozone NAAQS in the Portsmouth maintenance areas through the second 10-year maintenance period (and beyond).

b. Stability of ozone levels.

As discussed above, the Portsmouth area has maintained air quality well below the 1997 ozone NAAQS over the past ten years. Additionally, the design value data shown within Table 2 illustrates that ozone levels have been relatively stable over this timeframe, with a modest downward trend. This downward trend in ozone levels, coupled with the relatively small year-over-year variation in ozone design values, makes it reasonable to conclude that the Portsmouth area will not exceed the 1997 ozone NAAQS during the second 10-year maintenance period.

After New Hampshire completed the LMP for the Portsmouth area, EPA released the final 2018–2020 ozone design values. These values show a continued downward trend in ozone levels, with a 2018–2020 design value for the Portsmouth area of 0.063 ppm.[14]

3. Monitoring Network and Verification of Continued Attainment

EPA periodically reviews the ozone monitoring network that New Hampshire DES operates and maintains, in accordance with 40 CFR part 58. This network is consistent with the ambient air monitoring network assessment and plan developed by New Hampshire DES that is submitted annually to EPA and that follows a public notification and review process. EPA has reviewed and approved the 2020 Ambient Air Monitoring Network Assessment and Plan.

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. As noted above, New Hampshire DES's monitoring network in the Portsmouth area has been approved by EPA in accordance with 40 CFR part 58, and the area has committed to continue to maintain a network in accordance with EPA requirements. For further details on monitoring, the reader is referred to the ''2020/2021 New Hampshire DES's Annual Network Plan'' found at *https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/r-ard-20-03.pdf,* as well as EPA's approval letter for the 2020/2021 Annual Network Plan, which can be found in the docket for today's action. We believe New Hampshire's monitoring network is adequate to verify continued attainment of the 1997 ozone NAAQS in the Portsmouth area.

4. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan include contingency provisions. The purpose of such contingency provisions is to prevent future violations of the NAAQS or promptly remedy any NAAQS violations that might occur during the maintenance period. These contingency measures do not have to be fully adopted regulations at the time of redesignation. However, the

[12] This LMP guidance can found here: *https://www.epa.gov/sites/default/files/2016-06/documents/1995lmp-co.pdf.*

[13] As part of the Ozone Transport Region (OTR), the Portsmouth area is also subject to additional permitting requirements through nonattainment new source review (NNSR).

[14] For EPA's full design value report please see *https://www.epa.gov/air-trends/air-quality-design-values.*

contingency plan is an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a future violation of the NAAQS or some other trigger. The contingency plan should identify the measures to be expeditiously adopted and provide a schedule and procedure for adoption and implementation of the measures. The state should also identify specific triggers which will be used to determine when the contingency measures need to be implemented. While a violation of the NAAQS is an acceptable trigger, states may wish to choose a violation action level below the NAAQS as a trigger, such as an exceedance of the NAAQS. By taking action promptly after an exceedance occurs, a state may be able to prevent a violation of the NAAQS. In the unlikely event of a violation, New Hampshire would be required to adopt and enforce new measures to remedy the violation. Possible contingency measures identified by New Hampshire include the following:

- NO_X controls for industrial, commercial, and institutional (ICI) boilers.
- VOC controls for emulsified and cutback asphalt paving.
- VOC controls for consumer products.

EPA proposes to find that New Hampshire's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of CAA section 175A.

V. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)).

All actions that would require transportation conformity determinations for the Portsmouth ozone maintenance areas under our transportation conformity rule provisions are considered to have already satisfied the regional emissions analysis and ''budget test'' requirements in 40 CFR 93.118 as a result of an adequacy finding for the LMP or approval of the LMP. (See 69 FR 40004, 40063 (July 1, 2004).)

However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and Transportation Control Measure (TCM) implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, in order for projects to be approved, they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). EPA meets monthly with the New Hampshire Department of Transportation, New Hampshire DES, the Federal Highway Administration (FHWA), the Federal Transit Authority (FTA), and other partners to ensure the conformity guidelines in the New Hampshire SIP are followed (see 78 FR 71504 for EPA's most recent approval of New Hampshire's ''Conformity'' regulation).

VI. Proposed Action and Public Comment

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve the second 10-year LMP for the Portsmouth maintenance areas for the 1997 Ozone NAAQS, submitted by New Hampshire DES on February 18, 2020, as a revision to the New Hampshire SIP. We are proposing to approve the Portsmouth area LMP because we find that it includes an acceptable update of the various elements of the 1997 ozone NAAQS Maintenance Plan approved by EPA for the first 10-year period (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and essentially carries forward all of the control measures and contingency provisions relied upon in the earlier plan.

We also find that ozone design value for the Portsmouth area is sufficiently below the 1997 ozone standard to allow the State to submit a LMP and that the Portsmouth area 1997 Ozone NAAQS LMP adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. We believe the Portsmouth area 1997 Ozone LMP to be sufficient to provide for maintenance of the 1997 ozone NAAQS in the Portsmouth area over the second 10-year maintenance period (though 2026) and to thereby satisfy the requirements for such a plan under CAA section 175A(b).

EPA is proposing to approve the Portsmouth Area's Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS into the New Hampshire SIP. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

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

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

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

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

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

Dated: February 18, 2022.

David Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2022–04118 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[AU Docket No. 20–429; DA 22–171; FR ID 73250]

Revised Inventory for Auction of Flexible-Use Licenses in the 2.5 GHz Band; Comment Sought on Upfront Payments, Minimum Opening Bids, and Other Procedures for the Revised Inventory of Auction 108

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: The Office of Economics and Analytics and the Wireless Telecommunications Bureau seek comment on the application of procedures governing the conduct of Auction 108 in light of additions to the proposed license inventory for Auction 108.

DATES: Comments are due on or before March 4, 2022.

ADDRESSES: Interested parties may file comments in AU Docket No. 20–429. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Interested parties are strongly encouraged to file comments electronically.

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS at *https://www.fcc.gov/ecfs/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

• Filings in response to the Public Notice can be sent by commercial courier or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Dr., Annapolis Junction, MD 20701.

• U.S. Postal Service first-class, Express, or Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

• Until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19.

• *Email:* Commenters are asked to also submit a copy of their comments and reply comments electronically to the following address: *auction108@fcc.gov.*

FOR FURTHER INFORMATION CONTACT:

Auction Legal Questions: Daniel Habif, Lyndsey Grunewald or Scott Mackoul, (202) 418–0660.

General Auction Questions: (717) 338–2868.

Auction Inventory Questions: John Schauble, (202) 418–0797.

2.5 GHz Band Licensing Questions: Madelaine Maior, (202) 418–1466, or Nadja Sodos-Wallace, (202) 418–0955.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 108 Revised Inventory Public Notice,* AU Docket No. 20–429, DA 22–171, adopted on February 18, 2022 and released on February 18, 2022. The complete text of the *Auction 108 Revised Inventory Comment Public Notice* is available on the Commission's website at *https://www.fcc.gov/auction/108* or by using the search function for AU Docket No. 20–429, DA 22–171, on the Commission's Electronic Comment Filing System (ECFS) web page at *www.fcc.gov/ecfs.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. By the *Auction 108 Revised Inventory Comment Public Notice,* the Office of Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) seek further comment on the procedures governing to be used for Auction 108. Specifically, OEA and WTB seek comment on whether any procedures need to be adjusted for all the licenses available in Auction 108 in light of additions to the initial license inventory. OEA and WTB also seek comment on minimum opening bids and upfront payment amounts for the additional licenses. OEA and WTB have updated the listing of county and channel block combinations potentially available for Auction 108 to add or remove certain licenses, and that updated Attachment A file is available at *www.fcc.gov/auction/108.*

2. On January 13, 2021, the Commission released the *Auction 108*

Comment Public Notice, 86 FR 12146, that sought comment on competitive bidding procedures and various other procedures to be used in Auction 108, in accordance with 47 U.S.C. 309(j)(3). That public notice also described the licenses to be offered in Auction 108 and made available a file listing all county and channel block combinations potentially available for bidding in Auction 108. The Commission noted that the results of the Rural Tribal Priority Window would determine the final inventory, which would be released in advance of the deadline for the submission of short-form applications to bid in Auction 108. On February 9, 2022, OEA and WTB released the *Auction 108 Further Comment Public Notice,* 87 FR 8764, seeking comment on the use of a particular clock auction format for Auction 108.

3. The *Auction 108 Revised Inventory Comment Public Notice* seeks focused input on whether any bidding procedures for Auction 108 as described in those previous public notices should be adjusted or modified in light of the additions to the auction inventory. The *Auction 108 Revised Inventory Comment Public Notice* proposes no changes to the proposed upfront payments, minimum opening bids, or other procedures from those described in the *Auction 108 Comment Public Notice* and the *Auction 108 Further Comment Public Notice.* In light of the limited scope of the *Auction 108 Revised Inventory Comment Public Notice* and comments urging the Commission to move expeditiously to the start of bidding, OEA and WTB provide for a single round of comments by March 4, 2022, with no filing period for reply comments. A subsequent public notice will announce final procedures for Auction 108, including the procedures, terms, conditions, dates, and deadlines for applying to and participating in Auction 108, as well as provide an overview of the post-auction application and payment processes. An updated inventory for Auction 108 will be released prior to the short-form application deadline in Auction 108.

II. Background on Revised Inventory

4. In light of the comments and ex parte filings made in this proceeding raising issues concerning the accuracy of the inventory, WTB staff performed additional geographic information systems (GIS) analysis of existing licenses and prepared a new inventory based on license service area data extracted from the Universal Licensing System (ULS) on February 2, 2022. For purposes of this analysis, a channel block/county combination is considered unavailable, and is therefore not included in the inventory, if more than 99.9999% of the area within the county is fully encumbered by an existing license for that channel block. In the *2.5 GHz Report and Order,* 84 FR 57343, the Commission determined that any remaining unassigned EBS spectrum will be made available for commercial use via competitive bidding. In order to identify unassigned spectrum, WTB has treated as encumbered any areas calculated to be at least 99.9999% encumbered to avoid computational errors found to have been attributable to rounding when calculating areas as part of its GIS analysis. As a result of this further analysis, and taking into account the information provided by commenters, OEA and WTB have added 189 licenses in 130 counties and removed 370 licenses in 301 counties from the initial Auction 108 inventory. The majority of the changes to the inventory result from further review of the availability of the J guard band (2568–2572 MHz) in Channel Block 2 and further analysis of how canceled, terminated, or expired licenses modified the geographic service areas of active licenses.

5. In addition to reflecting further analysis of the incumbent licenses, the revised inventory also takes into account WTB's actions in the Rural Tribal Priority Window. The Commission established the Rural Tribal Priority Window to provide federally-recognized tribes with an opportunity to submit applications to obtain unassigned 2.5 GHz spectrum in order to foster communications networks in rural Tribal areas. The Rural Tribal Priority Window opened on February 3, 2020, and closed on September 2, 2020. The revised inventory reflects licenses issued based upon Rural Tribal Priority Window applications acted on to date. This inventory does not take into account Rural Tribal Priority Window applications that are pending (*i.e.,* counties that are requested in whole or in part by pending applications are included in this inventory). Potential bidders should be aware that there are counties that would become fully or partially encumbered if certain pending Rural Tribal Priority Window applications are granted.

6. OEA and WTB remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the potential uses of a license that it may seek in Auction 108, including the availability of unassigned white space in any particular market. In addition to the typical due diligence considerations encouraged of bidders in all auctions, OEA and WTB call particular attention in Auction 108 to potential encumbrances due to existing licenses and the Rural Tribal Priority Window issues, which may impact the licenses available in Auction 108. OEA and WTB note in particular that there will be a substantial number of licenses in inventory where the amount of unassigned area or frequency that is unassigned is very small. Each applicant should carefully consider these issues and the technical and economic implications for commercial use of the 2.5 GHz band. The Commission makes no representations or warranties about the use of this spectrum for particular services, or about the information in Commission databases that is furnished by outside parties. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

III. Further Comment Sought on Bidding Procedures

7. The *Auction 108 Comment Public Notice* and the *Auction 108 Further Comment Public Notice* sought on procedures for Auction 108, including: Auction format; bidding credits for eligible small businesses and rural service providers; bidding credit caps; upfront payments and bidding eligibility; minimum opening bids and reserve prices; activity rules; activity rule waivers and reducing eligibility; and information procedures during the auction. In the *Auction 108 Revised Inventory Comment Public Notice,* OEA and WTB seek comment on whether these procedures need to be adjusted for all licenses in Auction 108 in light of additions to the initial license inventory. OEA and WTB also seek comment on minimum opening bids and upfront payment amounts for the additional licenses in the Auction 108 inventory

8. *Digital Equity and Inclusion.* As part of the Commission's continuing effort to advance digital equity for all, including people of color and others who have been historically underserved,

marginalized, and adversely affected by persistent poverty and inequality, OEA and WTB invite comment on any equity-related considerations and benefits (if any) that may be associated with the issues discussed in the *Auction 108 Revised Inventory Comment Public Notice.* Specifically, OEA and WTB seek comment on how any bidding procedures for Auction 108 as applied to the new licenses included in the revised inventory may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

IV. Procedural Matters

A. Third Supplemental Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended, OEA and WTB prepared a Third Supplemental Initial Regulatory Flexibility Analysis (Third Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *Auction 108 Revised Inventory Comment Public Notice* to supplement the Regulatory Flexibility Analyses completed in the *2.5 GHz Report and Order, Auction 108 Comment Public Notice, Auction 108 Further Comment Public Notice,* and other Commission orders pursuant to which Auction 108 will be conducted. Written public comments are requested on the Third Supplemental IRFA. Comments must be identified as responses to the Third Supplemental IRFA and must be filed by the same deadline for comments specified on the first page of the *Auction 108 Revised Inventory Comment Public Notice.* OEA and WTB will send a copy of the *Auction 108 Revised Inventory Comment Public Notice,* including the Third Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Auction 108 Revised Inventory Comment Public Notice* and Third Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

10. *Need for, and Objectives of, the Proposed Rules.* The *Auction 108 Revised Inventory Comment Public Notice* seeks comment on certain procedural rules that may be affected by the new licenses included in the revised inventory for Auction 108, which will auction geographic overlay licenses of unlicensed spectrum in the 2.5 GHz band (2496–2690 MHz). This process is intended to provide notice of and adequate time for potential applicants to comment on these auction procedures. To promote the efficient and fair administration of the competitive bidding process for all Auction 108 participants, the *Auction 108 Revised Inventory Comment Public Notice* seeks comment on the application of auction procedures detailed in the *Auction 108 Comment Public Notice* and the *Auction 108 Further Comment Public Notice* to the new licenses included in the revised inventory.

11. The procedures for the conduct of Auction 108 on which the *Auction 108 Revised Inventory Comment Public Notice* seeks comment constitute the more specific implementation of the competitive bidding rules contemplated by 47 CFR parts 1 and 27, the *2.5 GHz Report and Order,* and relevant competitive bidding orders, and are fully consistent therewith.

12. *Legal Basis.* The Commission's statutory obligations to small businesses under the Communications Act of 1934, as amended, are found in 47 U.S.C. 309(j)(3)(B) and 309(j)(4)(D). The statutory basis for the Commission's competitive bidding rules is found in various provisions of the Communications Act of 1934, as amended, including 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304, 307, and 309(j). The Commission has established a framework of competitive bidding rules, updated most recently in 2015, pursuant to which it has conducted auctions since the inception of the auctions program in 1994 and would conduct Auction 108.

13. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term small entity as having the same meaning as the terms small business, small organization, and small governmental jurisdiction. In addition, the term small business has the same meaning as the term small business concern under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

14. As noted above, Regulatory Flexibility Analyses were incorporated into the *2.5 GHz Report and Order,* the *Auction 108 Comment Public Notice,* and the *Auction 108 Further Comment Public Notice.* Those analyses described in detail the small entities that might be significantly affected. In the *Auction 108 Revised Inventory Comment Public Notice,* OEA and WTB hereby incorporate by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *2.5 GHz Report and Order,* the *Auction 108 Comment Public Notice,* and the *Auction 108 Further Comment Public Notice.*

15. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* OEA and WTB do not expect the processes and procedures described in the *Auction 108 Revised Inventory Comment Public Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to participate in Auction 108 and comply with the procedures ultimately established because of the information, resources, and guidance the Commission makes available to potential and actual participants. For example, OEA intends to make information on the bidding system available and offer demonstrations and other educational opportunities for applicants in Auction 108 to familiarize themselves with the FCC auction application system and the auction bidding system, consistent with the previously detailed bidding procedures that may be affected by new licenses added to the inventory as described in the *Auction 108 Revised Inventory Comment Public Notice.* By providing these resources as well as the resources discussed below, OEA and WTB expect small entities that use the available resources to experience lower participation and compliance costs. Nevertheless, while WTB and OEA cannot quantify the cost of compliance with the procedures on which they seek comment, they do not believe that the costs of compliance will unduly burden small entities that choose to participate in the auction because the procedures for Auction 108 on which the *Auction 108 Revised Inventory Comment Public Notice* seeks comment are similar in many respects to the procedures in recent spectrum auctions conducted by the Commission.

16. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of

compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

17. OEA and WTB have taken steps to minimize any economic impact of the auction procedures on small entities through, among other things, the Commission's potential use of previously detailed auction procedures under the revised inventory. The Commission received comments noting discrepancies in the initial Auction 108 inventory that the Commission released with the *Auction 108 Comment Pubic Notice.* The revised inventory will allow all interested parties, including small entities, to further evaluate the potential procedures for Auction 108 in light of the new licenses included in the revised inventory and provide small entities with information about the available licenses essential to conducting their own due diligence.

18. OEA and WTB have also taken steps to minimize any economic impact of the auction procedures on small entities through, among other things, the many resources the Commission provides potential auction participants. These resources, which are described in detail in the Supplemental IRFA incorporated into the *Auction 108 Comment Public Notice* are provided at no cost and include, for example, access to an FCC Auctions Hotline for information about the auction process and procedures; an FCC Auctions Technical Support Hotline for technical assistance on issues such as access to or navigation within the electronic FCC Form 175 and use of the FCC's auction bidding system; a web-based, interactive online tutorial produced by Commission staff to familiarize applicants with auction procedures, filing requirements, bidding procedures, and other matters related to an auction; the opportunity to participate in a mock auction; and the opportunity to participate in Auction 108 electronically via the internet. Additionally, eligible small businesses and rural service providers will be able to participate in the bidding credit program for Auction 108, which may lower their relative costs of participation. In the *Auction 108 Revised Inventory Comment Public Notice,* OEA and WTB incorporate by reference the description of the additional steps taken to minimize the significant economic impact on small entities, and significant alternatives considered, from the Regulatory Flexibility Analysis in the *Auction 108 Comment Public Notice* and *Auction 108 Further Comment Public Notice.*

19. These procedures for the conduct of Auction 108 on which the *Auction 108 Revised Inventory Comment Public Notice* seeks comment constitute the more specific implementation of the competitive bidding rules contemplated by 47 CFR parts 1 and 27, the *2.5 GHz Report and Order,* and relevant competitive bidding orders, and are fully consistent therewith.

20. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

B. Deadlines and Filing Procedures

21. Pursuant to 47 CFR 1.415(d) and 1.419, interested parties may file comments on or before the date indicated on the first page of the *Auction 108 Revised Inventory Comment Public Notice,* in AU Docket No. 20–429. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

22. *Ex Parte Requirements.* This proceeding has been designated as a permit-but-disclose proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations must file a copy of any written presentations or memoranda summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine Period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to the Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Federal Communications Commission.

William Huber,

Associate Chief, Auctions Division, Office of Economics and Analytics.

[FR Doc. 2022–04006 Filed 2–28–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 220204–0040]

RIN 0648–BH70

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Electronic Monitoring Program Regulations for Bottom Trawl and Non-Whiting Midwater Trawl Vessels

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement electronic monitoring (EM) program regulations for vessels using groundfish bottom trawl and non-whiting midwater trawl gear in the Pacific Coast Groundfish Trawl Catch Share Program. The proposed action would allow vessels using bottom trawl and non-whiting midwater trawl gear to use EM in place of human observers to meet requirements for 100 percent at-sea catch monitoring. The proposed action is intended to increase operational flexibility and reduce monitoring costs for vessels in the groundfish trawl fishery. The proposed rule would also revise some existing regulations for EM vessels and EM service providers to clarify and streamline EM program requirements.

DATES: Comments on this proposed rule must be received no later than March 31, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0127 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0127 in the Search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, 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).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS and 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.

Electronic Access

This proposed rule is accessible at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region website at: *https://www.fisheries.noaa.gov/species/west-coast-groundfish* and at the Pacific Fishery Management Council's website at *https://www.pcouncil.org/managed_fishery/electronic-monitoring/.*

FOR FURTHER INFORMATION CONTACT: Colin Sayre, phone: 206–526–4656, or email: *colin.sayre@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) specifies management measures for over 90 different groundfish species in Federal waters off the West Coast states. Target species in the commercial fishery include Pacific whiting (hake), sablefish, dover sole, and rockfish, which are harvested by vessels primarily using midwater trawl and bottom trawl gear, and to a lesser extent ''fixed gear'' fish pots and longline. The trawl fishery is managed under the West Coast Groundfish Trawl Catch Share Program (Catch Share Program), which was implemented through Amendment 20 to the FMP in January 2011. The Catch Share Program consists of an individual fishing quota (IFQ) program for the shorebased trawl fishery (including whiting and non-whiting sectors), and cooperatives for the at-sea mothership (MS) and catcher/processor (C/P) trawl fisheries (whiting only). The Catch Share Program requires 100 percent monitoring of vessels at-sea, and dockside when offloading, to ensure accountability for all landings and discards of allocated IFQ species. The West Coast Groundfish Observer Program (WCGOP) is responsible for the training, briefing, and in-season support of at-sea observers in the Catch Share Program. WCGOP helps to manage and review the catch data collected by observers while at-sea.

Vessel owners and first receivers are responsible for obtaining and funding catch share observers and catch monitors as a condition of participating in the Catch Share Program. To provide a potential cost-saving alternative to human observers, the Pacific Fishery Management Council, NMFS, and groundfish stakeholders have been developing an electronic monitoring (EM) program as an option to meet at-sea monitoring requirements of the Catch Share Program. EM uses cameras and associated sensors to record and monitor fishing activities while a vessel is operating at sea. Video data is later reviewed by an analyst onshore to collect catch and effort information. EM can reduce monitoring costs for some vessels because it does not require deploying a human observer to the vessel, and associated, labor, travel, and logistical expenses.

On September 6, 2016, NMFS published the proposed rule providing a regulatory framework for EM in the Pacific Coast groundfish fisheries, and specific regulations for EM use with whiting midwater trawl gear and fixed gear (81 FR 61161). As discussed in that proposed rule, the Council originally contemplated including regulations for all gear types used in the Catch Share Program (whiting, non-whiting midwater, bottom trawl, and fixed gear) in one regulatory amendment. However, at the time, additional information was needed to finalize protocols for the use of EM on trips using bottom-trawl and non-whiting midwater gear. In April, September, and November 2017, the Council discussed various aspects of the EM program and took final action to recommend the use of EM with bottom trawl and non-whiting midwater trawl gear.

On June 28, 2019, NMFS published the final rule to allow the use of EM on whiting and fixed gear trips (84 FR 31146). The final rule established the overall EM program requirements, including an application process and responsibilities for participating vessel owners and operators and EM service providers, requirements for first receivers receiving catch from EM trips, and detailed gear-specific protocols for the use of EM on whiting and fixed gear trips. The final rule also set the implementation of third party EM service provider data services to January 1, 2021, to provide additional time to prepare for implementation.

At the April and June 2020 meetings, the Council considered and ultimately recommended other minor regulatory changes to existing EM program regulations implemented under the June 2019 final rule (84 FR 31146; June 28, 2019). These regulatory changes were identified and developed from information collected through exempted fishing permits (EFPs) used to test EM systems and protocols, and are intended to clarify and streamline EM program requirements. These proposed regulatory changes are included under this proposed rule, and are described in the following sections of this preamble.

At its April and June 2020 meetings the Council also recommended a delay in program implementation until January 1, 2022. NMFS approved the recommendation, to strengthen Council and industry support for the EM program, and to increase participation when the program is implemented. NMFS published a subsequent proposed rule (85 FR 53313; August 28, 2020) and final rule (85 FR 74614; November 23, 2020) that delayed implementation of the EM program by one year until January 1, 2022, to provide additional time for industry and prospective service providers to prepare for implementation.

At the June 2021 meeting, the Council again discussed delaying implementation of all EM program regulations, and took action at the September 2021 meeting to recommend that NMFS delay implementation of the entire EM program until January 1, 2024. NMFS published an interim final rule on October 6, 2021 (86 FR 55525) that changed effective dates in regulations in order to delay all other EM program regulations until at least January 1, 2024, and only after NMFS issues a public notice at least 90 calendar days before it will begin accepting applications for EM Authorizations for the first year of the Program. The Council and the industry have expressed the need to further develop a mechanism for the industry to fund video review and storage by Pacific

States Marine Fishery Commission (PSMFC). The Council and members of the fishing industry would like PSMFC to continue participating as a NMFS-certified, sole-source service provider under the EM regulatory program. They assert that PSMFC can provide video review services at lower cost than private sector service provider companies. Consistent with the existing regulations implemented under the October 6, 2021 interim final rule (86 FR 55525), these proposed regulations would similarly not be implemented before January 1, 2024.

Despite the delay in implementation of the EM program, NMFS is proceeding with this proposed rule that would allow the use of EM on trips with bottom-trawl and non-whiting midwater trawl gear. Should the Council take action to change EM service provider regulations to allow PSMFC to function as a sole-source EM service provider, NMFS would need to initiate a separate proposed and final rulemaking to make necessary changes to the existing regulations for EM service providers that were finalized under the June 2019 final rule (84 FR 31146; June 28, 2019). Whether the Council chooses to take action to change EM service provider regulations, or not, completing the rulemaking process for the use of EM on bottom-trawl and non-whiting midwater trawl trips will ensure all regulations are in place for vessels to use EM with any legal groundfish gear type in advance of EM program implementation.

In the October 2021 interim final rule, NMFS acknowledged that some permit applications had already been received at the time of the rulemaking. NMFS will consider and review these applications in advance of the date the program is fully implemented. Upon review NMFS will make a determination regarding the status of the applicant and may request updated information.

The Council deemed the proposed regulations necessary and appropriate to implement this action in a January 20, 2022, letter from Council Executive Director, Merrick Burden, to Regional Administrator Barry Thom. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. We are seeking comment on the proposed regulations in this action and whether they are consistent with the Pacific Coast Groundfish FMP, the Magnuson-Stevens Act and its National Standards, and other applicable laws.

II. Proposed Regulations

Proposed Measures for Using EM on Bottom Trawl and Non-Whiting Midwater Trawl Trips

The June 2019 final rule (84 FR 31146; June 28, 2019) implemented the overall framework and general requirements for the EM Program, including an application process for vessel owners and EM service providers and responsibilities for all program participants. This rule proposes to allow vessels participating in the EM Program to use bottom trawl gear or midwater trawl gear targeting non-whiting species, under the same general program requirements already in place for trips targeting whiting or using fixed gear. Vessel owners would be able to apply to NMFS to use EM in place of human observers to meet the 100-percent at-sea monitoring requirements of the Catch Share Program for bottom trawl or non-whiting midwater trawl trips. As is currently required under the EM Program regulations, vessel owners intending to use EM for bottom trawl or non-whiting midwater trawl trips would be required to develop a vessel monitoring plan (VMP) which documents installation of EM systems, including specific plans and procedures for system operation, maintenance, and catch handling. This information would be submitted to NMFS for review as part of the vessel's application for authorization to use EM. The vessel operator would be required to record discards of IFQ species on a logbook, which would initially be used to debit quota pounds from the vessel's account. The EM video data would then be reviewed by the vessel's EM provider and used to validate the discards reported in the logbook. The amount of video reviewed to audit the logbook would be as specified by NMFS in consultation with the Council and based on performance.

A detailed description of EM program requirements is contained in the September 2016 proposed rule (81 FR 61161; September 6, 2016) and June 2019 final rule (84 FR 31146; June 28, 2019) and is not repeated here. This proposed rule revises the gear-specific requirements of the EM Program to add requirements for trips using bottom trawl and non-whiting midwater trawl gear, and are described in the following sections of this preamble.

Catch Retention

Under this proposed rule, two different discard and catch retention rules could be used with EM on bottom trawl, and non-whiting midwater trawl trips: ''maximized'' or ''optimized'' retention. Vessel operators would be able choose the preferred retention rule under which they would plan to operate for a fishing trip using EM. As part of the required declaration report, prior to departing on a fishing trip, vessel operators would declare whether they intend to use maximized or optimized retention rules for the trip. Declaration reports are described in additional detail in following sections of this preamble.

Under proposed ''maximized'' retention requirements, vessels on bottom trawl and non-whiting midwater trawl trips would not sort or discard catch at-sea, and would be required to retain all catch until landing, with exceptions for prohibited and protected species.

Under ''optimized'' retention, EM vessel operators would be allowed to discard species that can be differentiated on camera, and retain those species that cannot be easily distinguished in video data. Some groundfish species are difficult to distinguish from each other without close inspection of certain physical features which cannot be easily viewed using video data. Species easily differentiated that may be discarded would be listed in § 660.604(p).

Vessel operators using EM on bottom trawl and non-whiting midwater trawl trips would be responsible for ensuring all discarded catch would be discarded following catch handling instructions in the NMFS-accepted VMP. This proposed rule would allow NMFS to specify alternate retention requirements in a NMFS-accepted VMP through the process described at § 660.604(f), after consultation with the Council and issuance of a public notice notifying the public of the changes.

Both retention rules have trade-offs, depending on the target species and gear type used. ''Maximized'' retention would simplify catch handling at sea, and video review as only prohibited and protected species discards would need to be differentiated on camera. ''Optimized'' retention would allow vessel operators to discard catch that can be differentiated on camera, and would reduce the burden of having to store and later dispose of unmarketable or otherwise undesirable fish. The Council originally recommended ''optimized'' retention rules as the preferred alternative for bottom trawl and non-whiting midwater EM trips because the Council considered ''maximized'' retention too restrictive. However, some EFP vessel operators on

non-whiting midwater trawl trips targeting rockfish expressed a preference for ''maximized'' retention as it simplified catch handling in a manner consistent with vessel operation on midwater whiting trips. The Council determined that allowing vessel operators to choose the retention rules that best fit the operation of gear and vessel, as well as the characteristics of the target species, would provide operational flexibility and ensure the reliability of EM video data for discard accounting.

This proposed rule would also expand the definition of prohibited species for the purposes of retention requirements under EM regulations at § 660.601. California Department of Fish and Wildlife (CDFW) recommended this proposed regulatory change to ensure state-managed species would be treated in the same manner as prohibited species if the vessel operator, or first-receiver, does not have the appropriate state permit to land and sell these particular species of fish. Because the retention/discard species list can change through time, CDFW recommended to the Council regulatory language that would cover any state-managed species to eliminate the need for further revisions should other state-managed species be added or removed from the lists.

EM Declaration and Switching Between EM and Observers

Under the proposed rule, vessels on bottom trawl and non-whiting midwater trawl trips would be allowed to switch between using EM systems on some trips and human observers on others. Current West Coast fisheries regulations at § 660.13(d) require vessel operators to declare the fishery sector in which they will participate, the area to be fished, and the gear and monitoring type (EM or observers) they intend to use prior to leaving port, with limited exemptions. The gear types or sectors, and monitoring types that must be declared are listed in regulations at § 660.13(d)(4)(iv)(A). These declarations are sent to the NMFS Office of Law Enforcement (OLE), and are binding for the duration of the fishing trip for which they have been made. This proposed rule would modify the list of declarations to include EM as a monitoring type that may be selected and declared on trips with bottom trawl and non-whiting midwater trawl gear.

Under current regulations at § 660.604(e)(3)(ii), EM vessel operators are required to submit annual tentative fishing plans to NMFS. Tentative fishing plans are used by WCGOP and observer providers to plan training and deployment of observers. Tentative fishing plans are a description of the vessel owner's fishing plans for the year, including which fishery the vessel owner plans to participate in, from what ports, and when the vessel owner intends to use EM and observers. The information provided in tentative fishing plans is for purposes of planning observer training and deployments, and is not binding.

Under this proposed rule, vessel owners and operators taking bottom trawl and non-whiting midwater trawl trips would not be restricted on the number of times they could switch between EM and observers during the year. Vessel operators are required to communicate their intent to use either monitoring type before fishing through declarations to NMFS OLE. The Council determined that by using tentative fishing plans, disruption to observer training and deployment would be mitigated should vessel operators choose to switch monitoring types, therefore eliminating the need to require limits on switching monitoring types. The option to switch between EM and observers provides vessel operators flexibility to use the best monitoring strategy when considering efficiency, cost, or other operational factors of their individual fishing and business plans at a given time. There would be no limit on switching between observers and EM for non-whiting midwater trawl and groundfish bottom trawl vessels.

Observer Program Declaration

Under existing regulations at § 660.604(n), as described above, a vessel operator must declare their intent to use either EM or observers 48 hours prior to leaving port. Under proposed regulations for ''maximized'' and ''optimized'' retention, the operator would also be required to include the retention rules they intend to use in their declaration to WCGOP 48 hours prior to leaving port on a trip using EM with bottom trawl or non-whiting midwater trawl gear. This timeframe and declaration allows for the planning of observer deployment. ''Optimized'' retention EM trips would continue to require partial observer coverage for the purpose of collecting biological samples of discarded catch. Biological samples include age, sex, and length specimen data which cannot be obtained through EM systems. Requiring the vessel operator to notify WCGOP of their intended retention type will ensure optimized retention trips can be selected for biological sampling. WCGOP does not require partial observer coverage on maximized retention EM trips for biological sampling at this time, but could potentially in the future.

Group EM Authorization and Self-Enforcing Agreements

Under the proposed regulations, a group of eligible vessel owners participating in the shorebased IFQ sector, including those that take bottom trawl and non-whiting midwater trawl trips, may obtain a group EM authorization through a self-enforcing agreement. Through a private, contractual arrangement, a self-enforcing agreement allows a co-signed group of vessels, owners, operators, and other interested parties to cooperatively encourage, and enforce, compliance of EM program requirements by members. To be considered for a group EM authorization, a group of vessel owners must submit a complete initial EM authorization application package to NMFS for review and approval. The package must include a copy of the self-enforcing agreement to be eligible to receive a group EM authorization. Participating vessel owners would be required to agree to conduct fishing operations according to the terms of the self-enforcing agreement. NMFS would still bear the ultimate responsibility for enforcing the EM regulations.

The self-enforcing agreement would need to include a description of participating members, responsibilities, procedures for communication with members and NMFS, equipment performance standards, provisions for the use and protection of confidential data, measures to enforce compliance, procedures for addressing non-compliance of members, and annual reports to the Council.

Under these proposed regulations, NMFS would have the authority to invalidate a group EM authorization if determined that any of the vessels, owners, and/or operators no longer meet the eligibility criteria for the self-enforcing agreement. NMFS would first notify the members of the group EM authorization of the deficiencies in writing, providing instructions, for members to correct the deficiencies. If the deficiencies are not resolved upon review of the first trip following the notification, NMFS will notify the members in writing that the group EM authorization is invalid and that the members are no longer exempt from observer coverage at §§ 660.140(h)(1)(i) and 660.150(j)(1)(i)(B) for that authorization period. After the invalidation of a group EM authorization, individual vessels would be able to apply for individual authorizations.

The Council recommended the allowance of self-enforcing cooperative agreements for shorebased IFQ vessels in the EM program based on prior participation in EM EFPs by fishing cooperatives. Under proposed regulations, a fishing collective that has operated under a cooperative self-enforcing agreement to test EM under EFPs would be able to apply for authorization to continue self-enforced compliance with the EM program. This proposed rule would allow additional groups of shorebased IFQ vessels applying for EM authorization to enter in the self-enforcing cooperative agreements. These agreements would help to encourage compliance with the many day-to-day responsibilities for EM system maintenance and catch handling requirements of the EM program.

Regulatory Changes To Refine Existing EM Program

In June 2019, NMFS published the final rule to implement an EM program for whiting and fixed gear vessels operating within the trawl fishery (84 FR 31146; June 28, 2019), establishing responsibility requirements for vessel operators using EM systems, and for EM service providers. These responsibilities are detailed in the final rule, and include declaration of EM system use by vessel operators, protocols for transferring and handling EM data, logbook processing requirements, and technical reports by EM service providers. Minor changes necessary to clarify these regulations were identified after the publication of the 2019 final rule. The regulatory changes described below were developed through Council discussion with NMFS and members of industry at the Council's April and June 2020 meetings. The Council's intent in developing these regulatory changes is to refine and clarify certain EM program requirements and improve the effectiveness of the EM program overall in meeting its intended monitoring goals for the Trawl Catch Share Program.

1. Hard Drive Deadline

This proposed regulatory change would increase the hard drive submission deadline to 72 hours from the beginning of the offload following a fishing trip in which EM was used. Under current EM program regulations at § 660.604(s)(3), vessels using EM systems are required to submit hard drives storing EM video data within 24 hours of beginning an offload after a fishing trip. Increasing this deadline to 72 hours would align it with the hard drive submission requirements used under EM EFPs. This change would provide additional time for vessel operators to comply with hard drive submission requirements with minimal impact to the timeliness of data. This change would also ensure a smooth transition for vessels operating under EFPs to the full EM program regulations when they become effective.

2. Reusing Hard Drives

This proposed regulatory change would require the scrubbing of EM hard drives only if end-to-end encryption is not used. Current EM regulations at § 660.603(m)(3) require service providers to remove all EM data before hard drives can be reused in the field. This requirement was intended to ensure protection of confidential information for vessel owners and operators. However, regular scrubbing of hard drives can shorten their functional life, and require their replacement more frequently, increasing operational costs for EM users. NMFS and the Council determined that the use of end-to-end encryption would sufficiently protect sensitive information and extend the life of EM hard drives. End-to-end encryption protects information encrypted by the sender, allowing only recipients with the encryption key to decrypt and access the information. Third parties without the encryption key would not have the means to read the files. Starting in 2017, NMFS stopped requiring scrubbing of hard drives that use end-to-end encryption in the EM EFP, which is consistent with practices in other regions. This regulatory change would reduce program costs, and still allow vessel owners to work with service providers to develop more strict requirements for the treatment of hard drives.

3. Limit on Switching Between EM and Observers for Whiting Vessels

The Council is recommending removing the limit on switching between observers and EM for whiting trips. Current regulations at § 660.604(m) restrict vessel operators on whiting trips from revising a monitoring declaration more than twice per calendar year, except in the case of an EM system malfunction. The limit was intended to prevent frequent switching that could disrupt deployment planning and affect the availability of observers. As NMFS described in the September 2016 proposed rule (81 FR 61161; September 6, 2016), and finalized in the June 2019 final rule (84 FR 31146; June 28, 2019), NMFS may waive the limit on switching between monitoring types if it is not necessary for planning observer deployment. After the final rule published, NMFS and the Council determined that a regulatory restriction on how many times a vessel taking whiting trips can switch between observers and EM was unnecessary. Under current regulations, vessels owners are required to provide a tentative fishing plan when they apply for their annual EM Authorization, in which the vessel owner gives NMFS advance notice of their plans to use EM and observers for the upcoming fishing year. WCGOP and observer providers then can use this information for planning purposes. This information negates the need for restrictions on switching between observers and EM. Therefore, the Council recommended, and NMFS proposes eliminating the limit on switching between EM and observers for whiting trips under this proposed rule. This proposed change would align the flexibility in moving between EM and observer coverage for all trip types (bottom trawl, whiting midwater, non-whiting midwater, and fixed gear).

4. Mothership/Catcher Vessel (MS/CV) Endorsement

Current EM regulations at § 660.604(e)(1)(iii) require a vessel applying to use EM in the mothership sector to have a valid mothership/catcher vessel (MS/CV) endorsement to qualify for authorization. This requirement was initially included for vessels testing EM under EFPs, as having valid permits for all intended fishing activities is a standard requirement for EFP eligibility. However, the regulations governing Mothership cooperatives at § 660.150(g)(1) allow for a vessel without an MS/CV endorsement, but that is enrolled in the mothership cooperative to deliver to a mothership. It was not the Council's and NMFS's intent to restrict participation in EM to only those vessels with MS/CV endorsement. Including this eligibility criterion was a holdover from the EFP terms and conditions and is not consistent with Council intent. Therefore, this proposed rule would remove the eligibility requirement at § 660.604(e)(1)(iii) for an MS/CV endorsement to be eligible to use EM on MS/CV trips.

5. Logbook Processing

This proposed regulatory change would require all vessel owners to submit discard logbooks directly to their EM service providers following a fishing trip in which EM was used. EM service providers would receive and process discard logbooks by entering data, performing quality assurance and control, and subsequently submit logbook data to NMFS for review.

Service providers would be required to submit initial logbook data to NMFS within two business days of receipt from vessel operators.

Current EM regulations at § 660.604(s) assume vessel operators would submit discard logbooks directly to NMFS or its agent for processing. Under this model, NMFS would data enter, and check logbooks for accuracy and issues, which would then be used to initially debit discarded catch from vessel IFQ accounts. EM service providers review video data separately, with WCGOP providing some logbook data to EM service providers that is necessary for completing the video review, such as trawl gear codend capacity, but with most identifying logbook data withheld to ensure video review is done blind.

Under current regulations, having NMFS process logbooks directly would require back-and-forth with EM service providers to accurately match logbooks with EM trips, select trips or hauls for review, compare logbook and EM discard estimates, and investigate any discrepancies. Vessel owners must submit logbooks directly to NMFS via a secure transmission method to comply with confidentiality and data security requirements, limiting the methods by which NMFS can receive logbooks.

At the November 2020 Groundfish Electronic Monitoring Program Advisory Committee (GEMPAC) meeting, GEMPAC members proposed an alternative procedure in which EM service providers would receive, complete data entry, review logbook data, and submit results to NMFS. NMFS and the Council determined it would be more efficient and cost effective to have EM service providers receive both logbooks and EM data directly from vessel owners for initial processing, entry, and quality control, and simply report final data to NMFS. NMFS would also receive logbooks, and use its debriefing procedures to carry out quality control on the logbook data and to check for potential bias in the video review. Having EM service providers process logbooks would also allow individual vessel operators to develop optimal submission methods for discard logbooks with their respective EM service providers. NMFS supports the Council recommendation and therefore proposes the change through this proposed rule.

6. Reporting Deadlines for EM Service Providers

Under current regulations at § 660.603, EM service providers are responsible for providing various feedback reports to vessel operators, and summaries to NMFS. These reports include logbook data, technical assistance, vessel operator feedback, EM summary data, and compliance reports. Submission of this information by service providers has been required in regulations as of June 2019, however, deadlines for the submission of these reports were not originally specified in regulation. Under this proposed rule, NMFS would establish submission deadlines for these required EM service providers' reports. This proposed change would allow NMFS to enforce timely submission of EM data. The submission deadlines for each report are specified below.

A. Discard Logbooks

As described previously in this proposed rule, vessel operators would submit discard logbooks directly to EM service providers for processing. The Council recommended, and NMFS is proposing, that service providers would submit the initial logbook data to NMFS within two days of receipt from vessel operators. This deadline would help to ensure timely debiting of discards from vessel IFQ accounts, and is consistent with submission timelines used for EM EFPs, and WCGOP observer data. Setting the deadline based on the receipt of initial, rather than final, logbook data would ensure service providers are not held responsible for late or incomplete submissions from vessel operators. After initial logbook submission, the EM service provider would work with the vessel operator to review data and, if necessary, revise and submit updated logbook data. Under these proposed regulatory changes, requiring concrete deadlines for these reports in the regulations would ensure the timely submission of discard estimates from logbook data, which is essential for discard accounting in the Catch Share program, and to provide clear expectations for all participants.

B. Reports of Technical Assistance

Under current regulations at § 660.603(k), EM service providers are required to submit reports to NMFS when technical assistance is requested by vessels on EM trips. These reports of technical assistance allow NMFS to monitor the performance of EM systems and field services, and follow up should any potential enforcement issues arise. Under this proposed rule, NMFS would require technical assistance reports to be submitted within 24 hours of the EM service provider being notified by the vessel operator. This change would be consistent with how these notifications have occurred in the EM EFP.

C. Vessel Feedback Reports

Under current regulations at § 660.603(m)(4), EM service providers are required to provide feedback reports to vessel operators and field services staff. Feedback is required on EM systems, crew responsibilities, and any other information that would improve the quality and effectiveness of data collection on the vessel. Through this proposed rule, NMFS would require feedback to be submitted to vessels within three weeks of the date EM data is received from the vessel operator for processing by the service provider. Prospective service providers, EFP vessel operators, and industry members have provided feedback through the Council process that three weeks is a reasonable timeline for the submission vessel feedback reports. Specifically, a submission deadline of three weeks after the service provider receives the hard drive from a vessel would ensure that EM service providers are not held responsible for late submissions by vessel operators. A shorter timeline may be more difficult for EM service providers to meet if they receive several hard drives at once, such as during busy times of the year. However, a longer timeline may not provide timely feedback to vessel operators and updates to discard data. Concrete and enforceable deadlines are necessary to ensure service providers submit feedback reports in a timely manner, and establish the data processing procedures to meet these deadlines. It is critically important to provide timely feedback to vessel captains and crew on catch handling, EM system care, and other aspects of operations that affect data quality. Timely feedback to vessels would help to ensure the quality of EM data, and reliability of the EM program in meeting monitoring goals of the Catch Share program.

D. EM Summary Data and Compliance Reports

Current regulations at § 660.603(m)(5) require service providers to submit EM summary data and compliance reports to NMFS following completion of video review. EM summary data includes discard estimates, fishing activity information, and trip metadata. This proposed rule would require EM summary data and compliance reports to be submitted to NMFS three weeks from the date the vessel operator submits EM data for processing. EM summary data and compliance reports are used by NMFS to debit vessel accounts, monitor program and vessel performance, and enforce requirements of the EM program. Trip metadata is an

essential record of when and where EM data were created by the vessel, submission time, date and location of review, and point of contacts for reviewers. Trip metadata ensures fishing data can be accurately corroborated with logbook data and is necessary for a complete chain of custody and accountability between the vessel, service provider, and NMFS. Catch discards would initially be debited from vessel accounts in the IFQ database using logbook data, as described previously; discards would largely be accounted for following logbook processing, and audited using EM data. If there are large discrepancies between the logbook and EM summary data, then a longer reporting timeline may result in vessel account owners experiencing unexpected debits, or being unable to ''close-out'' an account for a fishing trip until the EM data are received. In the EM EFP, reporting timelines have ranged from one to two weeks after receipt of the hard drive in 2015 to one to two months during periods of higher fishing activity in 2019. Feedback from prospective EM service providers is that three weeks after receipt of the hard drive may be a reasonable timeline for completion of the video review and submission of reports. NMFS recommended three weeks, with support from the Council's GEMPAC and Groundfish Management Team, as being a reasonable amount of time for service providers to complete review and subsequently prepare summary data and compliance reports.

7. Retention of EM Data

This proposed rule would change the minimum length of time service providers are required to retain EM data records. Under current regulations, service providers must maintain all of a vessel's EM data, reports, and other records specified in regulations at § 660.603(m) *Data services* for a period of not less than three years after the date of landing for that trip. The rationale for originally adopting a three-year minimum retention period for EM data is detailed in the June 2019 final rule (84 FR 31146; June 28, 2019). Since that final rule, NMFS evaluated the feasibility and cost effectiveness of a shorter retention period, and has developed a national policy on the minimum time that EM data must be retained.

Under this proposed rule, EM service providers would be required to maintain EM data for a period of not less than 12 months starting after NMFS has officially completed end-of-year account reconciliation and catch monitoring. This proposed regulatory change would align with the 12-month minimum data retention period in the NMFS Procedural Directive 04–115–03 (see **ADDRESSES**) for third-party minimum data retention in EM programs for federally managed U.S. fisheries. Review of catch monitoring data, including EM data, usually extends beyond the close of the fishery at the end of the calendar year. Starting the clock for the minimum retention period following end-of-the-year data reconciliation would best meet the recommendations of the procedural directive.

8. Change in Definition of Conflict of Interest for EM Service Providers

This proposed change would revise regulations at § 660.603(h) defining limitations on conflicts of interest for EM service providers to exclude providing other types of technical and equipment services to fishing companies. The definition in regulations currently excludes ''the provision of observer, catch monitor, EM or other biological sampling services, in any Federal or state-managed fisheries'' from the definition of a ''direct financial interest.'' After the final rule was published, an EM service provider brought to the Council's attention that many EM vendors provide a range of other services to fishing companies, including vessel monitoring systems (VMS), automatic identification system (AIS) transponders, telemetry (such as product temperature monitoring for seafood safety), buoy and gear monitoring, sonar systems, and mandatory safety services. Under the current regulatory definition, such EM vendors would be ineligible to provide EM services. The EM service provider noted that there is no evidence to suggest that providing such technical services to fishing companies creates any greater conflict of interest than providing biological sampling services, and requested that the definition be revised. Therefore, the Council recommended, and NMFS is proposing, revising the definition of a conflict of interest at § 660.603(h) to exclude providing other types of technical and equipment services to fishing companies.

9. Technical Corrections

In addition to the proposed regulatory changes already described, the Council also recommended two clarifying corrections to language in the EM program regulations. The first correction is technical and would change the reference to ''a NMFS-accepted EM Service Plan'' under § 660.603(a)(1) to correctly refer to paragraph § 660.603(b)(1)(vii). The second correction would change a reference to ''owner or operator'' to instead be ''authorized representative of the vessel'' in § 660.603(n)(3), which is consistent with language in other regulations in 50 CFR 660—Fisheries Off West Coast States. This correction would clarify that a representative designated by the vessel owner, rather than solely the vessel owner or operator, is allowed to transfer EM data to service providers for review. NMFS supports these changes, and is proposing these changes through this proposed rule.

III. Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish FMP, Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment. In making the final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the Pacific Coast Groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866. This proposed rule does not contain policies with Federalism or ''takings'' implications as those terms are defined in Executive Orders 13132 and 12630, respectively.

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

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an IRFA that describes the impact on small businesses, non-profit enterprises,

local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities.

The RFA (5 U.S.C. 601 *et seq.*) requires government agencies to assess the effects that regulatory alternatives would have on small entities, defined as any business/organization independently owned and operated and not dominant in its field of operation (including its affiliates). A small harvesting business has combined annual receipts of $11 million or less for all affiliated operations worldwide. A small fish-processing business is one that employs 750 or fewer persons for all affiliated operations worldwide.

For marinas and charter/party boats, a small business is one that has annual receipts not in excess of $7.5 million. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A nonprofit organization is determined to be ''not dominant in its field of operation'' if it is considered small under one of the following Small Business Administration (SBA) size standards: Environmental, conservation, or professional organizations are considered small if they have combined annual receipts of $15 million or less, and other organizations are considered small if they have combined annual receipts of $7.5 million or less.

The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

This proposed rule would impact mainly commercial harvesting entities engaged in the groundfish limited entry trawl fishery. Although this action proposes an EM program regulations for only two trip types in the limited entry trawl fishery—non-whiting midwater trawl, and bottom trawl—any limited entry trawl vessel may participate in these components, provided they comply with its requirements, and therefore may be eligible to use EM as applied to these two trawl gear sectors. In addition, vessels deploying EM are likely to be a subset of the overall trawl fleet, as some vessels would likely choose to continue to use observers. However, as all trawl vessels could potentially use EM in the future under the proposed action, this IRFA analyzes impacts to the entire trawl fleet. The total number of vessels that may be eligible to use EM is 175, the total number of limited entry trawl permits in 2021, and includes those vessels that do use bottom trawl and non-whiting midwater trawl gear, and those that do not. Given these entities participate in the program, they are most likely to be impacted by this rule in the short term. This number may be an underestimate if additional vessels elect to participate in the EM program in the future.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other Federal laws.

A Description of any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The RFA requires Federal agencies to conduct a full RFA analysis unless the agency can certify that the proposed and/or final rule would not have a significant economic impact on a substantial number of small entities. This determination can be made at either the proposed or final rule stage. If the agency can certify, it need not prepare an IRFA, a final regulatory flexibility analysis (FRFA), or a Small Entity Compliance Guide or undertake a subsequent periodic review of such rules. The NMFS Guidelines for Economic Analysis of Fishery Management Actions suggest two criteria to consider in determining the significance of regulatory impacts, namely, disproportionality and profitability. These criteria relate to the basic purpose of the RFA, *i.e.,* to consider the effect of regulations on small businesses and other small entities, recognizing that regulations are frequently unable to provide short-term cash reserves to finance operations through several months or years until their positive effects start paying off. If either criterion is met for a substantial number of small entities, then the rule should not be certified for not having an effect on small entities. These criterion raise two questions: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? Do the regulations significantly reduce profit for a substantial number of small entities?

The preferred alternative for this rule will not have a significant impact when comparing small versus large businesses in terms of disproportionality and profitability given available information. These regulations are likely to reduce fishing costs for both small and large businesses. EM is an optional monitoring alternative to observers, and may provide cost savings for some vessels. Economic effects of the proposed action are expected to range from neutral to positive when compared to the status quo. Nonetheless, NMFS has prepared this IRFA. Through the rulemaking process associated with this action, NMFS is requesting comments on this conclusion.

The economic impacts on small entities resulting from the proposed action range from neutral to positive; these entities will have a choice between hiring an observer, as is status quo, or using EM. The choice is expected to be based on relative costs and operational flexibility. Observer costs are currently $499 to $537 per seaday. Under EM, NMFS estimates vessels in the bottom trawl fishery will spend between $342/seaday (which include the cost of new equipment and installation) or $285/seaday (without equipment costs). These estimates are based on 412 seadays for 10 bottom trawl vessels participating in EFPs from 2019–2020. Under EM, NMFS estimates per seaday costs for non-whiting midwater trawl trips to range from $142/seaday (with equipment costs), and $120/seaday (without equipment costs). These estimates are based on 3,215 seadays for 30 midwater trawl vessels participating in EFPs from 2091–2020, and averaged cost estimates from four prospective EM service providers. These cost estimates are detailed in section 4.2 ''Industry Costs'' of the IRFA included in the supporting documents for this proposed rule. These costs are likely an overestimate and not an accurate estimate of seaday costs for this gear type because it does not incorporate revenue from seadays pursuing bottom trawl and whiting activities that are also part of these vessels' portfolios. Cost of EM service, including equipment installation and maintenance, along with video review and data service is expected to vary by service provider. Entities participating this fishery are not required to use EM, and have the choice to use a human observer instead of EM. Furthermore, the cost of EM is likely to decrease as technology used in EM systems (cameras, sensors, and electronic storage devices) that meets current specification necessary to meet monitoring requirements becomes cheaper over time. Therefore, this proposed action would not impose new costs on these

small entities, and will likely provide measurable cost savings over time as individual vessels choose the most affordable at-sea monitoring systems relative to their fishing operations.

The components of this rule have the potential to positively impact all entities in the catch share sector of the fishery, regardless of size. Therefore, the rule would impose effects on ''a substantial number'' of small entities, however, these effects are expected to range from neutral (if entities choose not to use the added flexibility of the provisions in this rule) to positive. Data used to inform this analysis was collected through EFPs and collaboration with industry and non-government organizations from 2012 to present.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action nor are there are no significant alternative to the proposed rule that will accomplish the stated objectives and that minimize any significant economic impact of the proposed rule on small entities. As fishermen are given a choice between two alternative monitoring systems (observers vs EM), this rule is likely to have neutral to positive effects on small entities.

These regulations are likely to reduce fishing costs for both small and large businesses. Through this proposed rule, NMFS is requesting comments on this conclusion. The proposed action and alternatives are described in detail in the Council's regulatory amendment and the accompanying regulatory impact review (RIR)/IRFA (see **ADDRESSES**).

Description of the Proposed Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule Under the Paperwork Reduction Act (PRA)

The proposed action contains collection-of-information requirements that have been previously approved under OMB control number 0648–0785, West Coast Region Groundfish Trawl Fishery Electronic Monitoring Program, as per the PRA requirements. The requirements include vessel owner EM applications, renewals, and reports, EM service providers applications, renewals and reports, as well as vessel operator log-book, and hard drive submission. This proposed rule would revise collection-of-information requirements to include submission of information for the formation of self-enforcing cooperative agreements. The proposed action contains changes to collection-of-information requirements that are subject to review and approval by the Office of Management and Budget (OMB) as per the PRA requirements. NMFS has submitted these requirements to OMB for approval under OMB control number 0648–0785 West Coast Region Groundfish Trawl Fishery Electronic Monitoring Program. This proposed rule would revise collection-of-information requirements to include submission of information for the formation of self-enforcing cooperative agreements. Collection of information for self-enforcing agreements is not mandatory, as self-enforcing agreements are an optional provision of the EM program under collection 0648–0785. Some vessel owners may choose to apply for a group EM authorization under a self-enforcing agreement in lieu of individual vessel authorizations. The self-enforcing agreement would be submitted with the initial applications for vessels in the group, and requires approval prior to accepting final applications from the group. One self-enforcing agreement would be completed and submitted by a designated representative for each group of vessel owners applying under a group authorization. NMFS expects no more than three such self-enforcing group agreements for the first three years of this collection. Each self-enforcing agreement is expected to take approximately 3 hours to complete. The total annualized time burden to prepare self-enforcing agreements would be 3 hours (3 hours × 3 agreements/3 years). The burden cost of one copy of the self-enforcing agreement is estimated at $3.00 ($0.10/page × 30 pages). A designated representative, or manager of the self-enforcing cooperative would hold at least one copy. To be deemed eligible to operate under the agreement, vessel owners and operators would be required to have executed a copy of the agreement for an adherence agreement under which they agree to be bound. At most, 10 vessel owners are expected to participate in any one self-enforcing agreement, each would be required to have a copy of the agreement, plus one original copy held by the cooperative manager, is expected to result in a total annualized burden of $33.00 ($3.00 × 11).

This proposed rule includes a minor revision to declaration requirements for groundfish vessels using EM under West Coast Region Vessel Monitoring Requirement in the Pacific Coast Groundfish Fishery (OMB Control Number 0648–0573). Vessels in the Pacific Coast Groundfish Fishery are required to declare the gear type and monitoring they will use on a given trip. Under this proposed rule, vessels would be able to declare ''electronic monitoring'' or ''observers'' as possible monitoring types on trips with bottom trawl and non-whiting midwater trawl gear. The change would add additional potential answers to an existing declaration questionnaire, which does not affect the number of entities required to comply with the declaration requirement (OMB Control Number 0648–0573). Therefore, the proposed rule does not increase the time or cost burden associated with this requirement.

Similarly, this proposed rule would adjust the requirement for EM vessels to notify the West Coast Groundfish Observer Program before each trip in place of the existing notification to an individual vessel's observer provider when using a catch share observer. This change would not be expected to increase the time or cost burden associated with the existing notification requirements approved under the collection Observer Programs' Information That Can be Gathered Only Through Questions (OMB Control Number 0648–0593).

The requirement for first receivers to report protected and prohibited species landings was previously approved under the collection Northwest Region Groundfish Trawl Fishery Monitoring and Catch Accounting Program (OMB Control Number 0648–0619). Under the proposed rule, first receivers would continue to report protected and prohibited species landings, but would also report landings of catch from trips monitored using EM under ''maximized'' and ''optimized'' retention rules with bottom trawl and non-whiting midwater trawl gear. The change would add additional potential answers to an existing questionnaire, and is not be expected to change the time or cost burden or number of entities associated with this requirement.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at *www.reginfo.gov/public/do/PRAMain.*

For more information, these collections, and all currently approved NOAA collections can be viewed at

https://www.reginfo.gov/public/do/PRASearch# by entering the related OMB control number.

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indians.

Dated: February 14, 2022.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. Authority citation for part 660 continues to read as follows

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.13 revise paragraph (d)(4)(iv)(A) to read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(A) * * *

(*1*) Limited entry fixed gear, not including shorebased IFQ,

(*2*) Limited entry groundfish non-trawl, shorebased IFQ, observer,

(*3*) Limited entry groundfish non-trawl, shorebased IFQ, electronic monitoring,

(*4*) Limited entry midwater trawl, non-whiting shorebased IFQ, observer,

(*5*) Limited entry midwater trawl, non-whiting shorebased IFQ, electronic monitoring,

(*6*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, observer,

(*7*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, electronic monitoring,

(*8*) Limited entry midwater trawl, Pacific whiting catcher/processor sector,

(*9*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel or mothership), observer,

(*10*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel), electronic monitoring,

(*11*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl,

(*12*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl, electronic monitoring,

(*13*) Limited entry demersal trawl, shorebased IFQ, observer

(*14*) Limited entry demersal trawl, shorebased IFQ, electronic monitoring,

(*15*) Limited entry selective flatfish trawl, shorebased IFQ, observer,

(*16*) Limited entry selective flatfish trawl, shorebased IFQ, electronic monitoring,

(*17*) Non-groundfish trawl gear for pink shrimp,

(*18*) Non-groundfish trawl gear for ridgeback prawn,

(*19*) Non-groundfish trawl gear for California halibut,

(*20*) Non-groundfish trawl gear for sea cucumber,

(*21*) Open access longline gear for groundfish,

(*22*) Open access Pacific halibut longline gear,

(*23*) Open access groundfish trap or pot gear,

(*24*) Open access Dungeness crab trap or pot gear,

(*25*) Open access prawn trap or pot gear,

(*26*) Open access sheephead trap or pot gear,

(*27*) Open access line gear for groundfish,

(*28*) Open access HMS line gear,

(*29*) Open access salmon troll gear,

(*30*) Open access California Halibut line gear,

(*31*) Open access Coastal Pelagic Species net gear,

(*32*) Other gear,

(*33*) Tribal trawl,

(*34*) Open access California gillnet complex gear, or

(*35*) Gear testing.

* * * * *

■ 3. In § 660.601, add the definition of ''Prohibited species'' in alphabetical order to read as follows:

§ 660.601 Definitions.

* * * * *

Prohibited species means those species and species groups defined at § 660.11; Dungeness crab caught south of Point Reyes, California; fish in excess of state or Federal limits; fish below a state or Federal minimum size; and species for which the vessel or vessel representative does not have a state or Federal permit.

* * * * *

■ 4. In § 660.603, revise paragraphs (a)(1), (h)(1) introductory text, (k)(5), (m) introductory text, (m)(1), (m)(3), (m)(4) introductory text, (m)(5), (m)(6) and (n)(3) to read as follows:

§ 660.603 Electronic monitoring provider permits and responsibilities.

(a) * * *

(1) Operate under a NMFS-accepted EM Service Plan (see paragraph (b)(1)(vii) of this section).

* * * * *

(h) * * *

(1) EM service providers and their employees must not have a direct financial interest, other than the provision of observer, catch monitor, EM, other biological sampling services, VMS, AIS transponders, telemetry (such as product temperature monitoring for seafood safety), buoy and gear monitoring, sonar systems, mandatory safety services (*i.e.,* GMDSS), or other technical or equipment services, in any Federal or state managed fisheries, including but not limited to:

* * * * *

(k) * * *

(5) The EM service provider must submit to NMFS reports of requests for technical assistance from vessels, including when the call or visit was made, the nature of the issue, and how it was resolved. Reports must be submitted to NMFS within 24 hours of the EM service provider being notified of the request for technical assistance.

* * * * *

(m) *Data services.* For vessels with which it has a contract (see § 660.604(k)), the EM service provider must provide and manage EM data and logbook processing, reporting, and record retention services, as described below and according to a NMFS-approved EM Service Plan, which is required under paragraph (b)(1)(vii) of this section, and as described in the EM Program Manual or other written and oral instructions provided by the EM Program, and such that the EM Program achieves its purpose as defined at § 660.600(b).

(1) The EM service provider must process vessels' EM data and logbooks according to a prescribed coverage level or sampling scheme, as specified by NMFS in consultation with the Council, and determine an estimate of discards for each trip using standardized estimation methods specified by NMFS. NMFS will maintain manuals for EM and logbook data processing protocols on its website.

* * * * *

(3) The EM service provider must track hard drives and EM datasets throughout their cycles, including documenting any access and modifications. If end-to-end encryption is not used to protect EM data, EM data must be removed from hard drives or

other mediums before returning them to the field.

(4) The EM service provider must communicate with vessel operators and NMFS to coordinate data service needs, resolve specific program issues, and provide feedback on program operations. No later than three weeks from the date of receipt of EM data for processing from the vessel operator, the EM service provider must provide feedback to vessel representatives, field services staff, and NMFS regarding:

* * * * *

(5) *Submission of data and reports.* On behalf of vessels with which it has a contract (see § 660.604(k)), the EM service provider must submit to NMFS logbook data, EM summary reports, including discard estimates, fishing activity information, and meta data (*e.g.,* image quality, reviewer name), and incident reports of compliance issues according to a NMFS-accepted EM Service Plan, which is required under paragraph (b)(1)(vii) of this section, and as described in the EM Program Manual or other written and oral instructions provided by the EM Program, such that the EM program achieves its purpose as defined at § 660.600(b). Logbook data must be submitted to NMFS within two business days of receipt from the vessel operator. EM summary reports must be submitted within three weeks of the date the EM data was received by the EM service provider from the vessel operator. If NMFS determines that the information does not meet these standards, NMFS may require the EM service provider to correct and resubmit the datasets and reports.

(6) *Retention of records.* Following an EM trip, the EM service provider must maintain all of a vessel's EM data and other records specified in this section, or used in the preparation of records or reports specified in this section or corrections to these reports. The EM service provider must maintain EM data for a period of not less than 12 months after NMFS has completed its determination of the total base year IFQ catch for all vessels for end-of-year account reconciliation (*i.e.,* base year is the year in which the EM trip was taken). NMFS will issue a public notice when end-of-the-year account reconciliation has been completed, on or about March 1 of each year. The EM service provider must maintain summary EM data and other records for a period of not less than three years after the date of landing for that trip. EM data and other records must be stored such that the integrity and security of the records is maintained for the duration of the retention period. The EM service provider must produce EM data and other records immediately upon request by NMFS or an authorized officer.

(n) * * *

(3) Must not release a vessel's EM data and other records specified in this section (including documents containing such data and observations or summaries thereof) except to NMFS and authorized officers as provided in paragraph (m)(6) of this section, or as authorized by an authorized representative of the vessel.

■ 5. In § 660.604,

■ a. Revise paragraphs (e) introductory text and (e)(1);

■ b. Remove paragraph (e)(5);

■ c. Revise paragraphs (f), (i), (m), and (n);

■ d. Add paragraphs (p)(3) and (4);

■ e. Revise paragraphs (q), (s)(2), (s)(3)(i) through (ii); and

■ f. Remove and reserve paragraph (s)(3)(iii).

The revisions and additions read as follows:

§ 660.604 Vessel and first receiver responsibilities.

* * * * *

(e) *Electronic Monitoring Authorization.* To obtain an EM Authorization, a vessel owner must submit an initial application to the NMFS West Coast Region Fisheries Permit Office, and then a final application that includes an EM system certification and a vessel monitoring plan (VMP). NMFS will only review complete applications. NMFS will issue a public notice at least 90 calendar days prior to when it will begin accepting applications for EM Authorizations for the first year of the Program. Once NMFS begins accepting applications, vessel owners that want to have their EM Authorizations effective for January 1 of the following calendar year must submit their complete application to NMFS by October 1 of the preceding calendar year. Vessel owners that want to have their EM Authorizations effective for May 15 must submit their complete application to NMFS by February 15 of the same year. In lieu of individual EM Authorizations, a group of eligible vessel owners participating in the shorebased IFQ sector may obtain a group EM Authorization through a self-enforcing agreement. This agreement allows a group of eligible vessels to encourage compliance with the requirements of this section through a private, contractual arrangement. To be considered for a group EM Authorization, a group of vessel owners must submit a completed application package to NMFS for review and approval. As part of a group EM Authorization application, participating vessel owners must agree to conduct fishing operations according to the self-enforcement agreement. For a vessel to be deemed eligible to operate under the agreement, its owner(s) and its operator(s) must have executed a copy of the agreement or an adherence agreement under which they agree to be bound by the agreement's terms. The existence of a self-enforcing agreement among EM vessels does not foreclose the possibility of independent enforcement action by NMFS OLE or authorized officers.

(1) *Initial application.* To be considered for an EM Authorization, the vessel owner must:

(i) Submit a completed application form provided by NMFS, signed and dated by an authorized representative of the vessel;

(ii) Meet the following eligibility criteria:

(A) The applicant owns the vessel proposed to be used;

(B) The vessel has a valid Pacific Coast Groundfish limited entry, trawl-endorsed permit registered to it;

(C) The vessel is participating in the Pacific whiting IFQ fishery, mothership sector, or the Shorebased IFQ sector;

(D) The vessel is able to accommodate the EM system, including providing sufficient uninterrupted electrical power, suitable camera mounts, adequate lighting, and fittings for hydraulic lines to enable connection of a pressure transducer;

(E) The vessel owner and operator are willing and able to comply with all applicable requirements of this section and to operate under a NMFS-accepted VMP; and

(F) The vessel owner and operator are willing and able to comply with the terms and conditions of a self-enforcing agreement that was submitted as part of a group authorization application, if applicable.

(iii) If applying for a group EM Authorization, submit a complete proposed self-enforcing agreement that describes how the group's operations will be conducted to meet the requirements of this section. NMFS will develop EM Program Guidelines containing best practices and templates and make them available on NMFS's website to assist vessel owners in developing a self-enforcing agreement. The self-enforcing agreement must include descriptions of the following:

(A) A list of all participating vessels, owners, operators, and other parties;

(B) The name and contact information of a designated representative who will be responsible for ensuring that each vessel is complying with the terms and

conditions of the agreement and the requirements of this section, and who will promptly inform the appropriate parties and NMFS if any vessel fails to comply;

(C) Eligibility criteria for participating vessels, owners, and operators;

(D) The roles and responsibilities of participating vessels, owners, operators, the designated representative, and any other parties to the agreement;

(E) Procedures for communication between participating vessels, owners, operators, the designated representative, and any other parties to the agreement, NMFS or its designated agent, and EM service providers, for the execution of the agreement and the requirements of this section;

(F) Performance standards or requirements for equipment, if applicable;

(G) Reporting requirements, if applicable;

(H) Time and area restrictions, if applicable;

(I) Provisions for the use and protection of confidential data necessary for execution of the agreement;

(J) Provisions to encourage or enforce the compliance of members with the agreement and the requirements of this section;

(K) Procedures for addressing the non-compliance of members with the agreement and the requirements of this section, including procedures for restricting or terminating vessel's participation in the agreement;

(L) Procedures for notifying NMFS when a participating vessel or its owner(s) or operator(s) are not complying with the terms of the agreement or the requirements of this section;

(M) Procedures for participating vessels, owners, operators, the designated representative, or other parties to the agreement, to exit the agreement;

(N) Any other provisions that the applicants deem necessary for the execution of the agreement; and

(O) Procedures for the designated representative to submit an annual report to the Council prior to applying to renew a group EM authorization containing information about the group's performance from the previous year, including a description of any actions taken by the self-enforcing group in response to the non-compliance of members with the agreement.

* * * * *

(f) *Changes to a NMFS-accepted VMP or NMFS-approved self-enforcing agreement.* A vessel owner may make changes to a NMFS-accepted VMP by submitting a revised plan or plan addendum to NMFS in writing. A group may make changes to an approved self-enforcing agreement by submitting a revised agreement or agreement addendum to NMFS in writing. NMFS will review and accept the change if it meets all the requirements of this section. A VMP or self-enforcing agreement addendum must contain:

(1) The date and the name and signature of the vessel owner, or designated representative for a self-enforcing agreement;

(2) Address, telephone number, fax number and email address of the person submitting the revised plan or addendum; and

(3) A complete description of the proposed change.

* * * * *

(i) *Renewing an EM Authorization.* To maintain a valid EM Authorization, vessel owners must renew annually prior to the permit expiration date. NMFS will mail EM Authorization renewal forms to existing EM Authorization holders each year on or about: September 1 for shorebased IFQ vessels, and January 1 for Pacific whiting IFQ and MS/CV vessels. Vessel owners who want to have their Authorizations effective for January 1 of the following calendar year must submit their complete renewal form to NMFS by October 15. Vessel owners who want to have their EM Authorizations effective for May 15 of the following calendar year must submit their complete renewal form to NMFS by February 15.

* * * * *

(m) *Declaration reports.* The operator of a vessel with a valid EM Authorization must make a declaration report to NMFS OLE prior to leaving port following the process described at § 660.13(d)(4). A declaration report will be valid until another declaration report revising the existing gear or monitoring declaration is received by NMFS OLE.

(n) *Observer requirements.* The operator of a vessel with a valid EM Authorization must provide advanced notice to NMFS, at least 48 hours prior to departing port, of the vessel operator's intent to take a trip under EM, including: Vessel name, permit number; contact name and telephone number for coordination of observer deployment; date, time, and port of departure; and the vessel's trip plan, including area to be fished, gear type to be used, and whether the vessel will use maximized or optimized retention rules for the trip as defined at paragraphs (p)(3) and (4) of this section. NMFS may waive this requirement for vessels declared into the Pacific whiting IFQ fishery or mothership sector with prior notice. If NMFS notifies the vessel owner, operator, or manager of any requirement to carry an observer, the vessel may not be used to fish for groundfish without carrying an observer. The vessel operator must comply with the following requirements on a trip that the vessel owner, operator, or manager has been notified is required to carry an observer.

* * * * *

(p) * * *

(3) *Maximized retention bottom trawl and non-whiting midwater trawl trips.* A vessel operator on a declared maximized retention trip using bottom trawl gear, or midwater trawl gear in which Pacific whiting constitutes less than 50 percent of the catch by weight at landing, the vessel must not sort catch at-sea and must retain all catch until landing, with exceptions listed below in paragraphs (p)(3)(i) through (v) of this section. All discards must be discarded following instructions in the VMP per paragraph (e)(iii) of this section. All discards, regardless of the source, must be reported in the bottom trawl logbook, including the species (where possible), estimated weight, and reason for discard. The vessel operator is responsible for ensuring that all catch is handled in a manner that enables the EM system to record it.

(i) Minor operational discards are permitted. Minor operational discards include mutilated fish; fish vented from an overfull codend; and fish removed from the deck and fishing gear during cleaning. Minor operational discards do not include discards that result when more catch is taken than is necessary to fill the hold or catch from a tow that is not delivered.

(ii) Large individual marine organisms (*i.e.,* all marine mammals, sea turtles, and non-ESA-listed seabirds, and fish species longer than 6 ft (1.8 m) in length) may be discarded. For any ESA-listed seabirds that are brought on board, vessel operators must follow any relevant instructions for handling and disposition under § 660.21(c)(1)(v).

(iii) Crabs, starfish, coral, sponges, and other invertebrates may be discarded.

(iv) Trash, mud, rocks, and other inorganic debris may be discarded.

(v) A discard that is the result of an event that is beyond the control of the vessel operator or crew, such as a safety issue or mechanical failure, is permitted.

(4) *Optimized retention bottom trawl and non-whiting midwater trawl trips.* On a declared optimized retention trip

using bottom trawl gear, or midwater trawl gear in which Pacific whiting constitutes less than 50 percent of the catch by weight at landing, the vessel owner and operator are responsible for the following:

(i) The vessel must retain IFQ species (as defined at § 660.140(c)), except for Arrowtooth flounder, English sole, Dover sole, deep sea sole, Pacific sanddab, Pacific whiting, lingcod and starry flounder; must retain salmon and eulachon; and must retain the following non-IFQ species greenland turbot; slender sole; hybrid sole; c-o sole; bigmouth sole; fantail sole; hornyhead turbot; spotted turbot; California halibut; northern rockfish; black rockfish; blue rockfish; shortbelly rockfish; olive rockfish; Puget Sound rockfish; semaphore rockfish; walleye pollock; slender codling; Pacific tom cod; with exceptions listed in paragraphs (p)(4)(i)(A) and (B) of this section.

(A) Mutilated and depredated fish may be discarded.

(B) A discard that is the result of an event that is beyond the control of the vessel operator or crew, such as a safety issue or mechanical failure, is permitted.

(ii) The vessel must discard Pacific halibut, green sturgeon, California halibut (except as allowed by state regulations), and nearshore groundfish species below state commercial minimum size limits, following instructions in the NMFS-accepted VMP.

(iii) Incidentally caught marine mammals, non-ESA-listed seabirds, sea turtles, other ESA-listed fish, and Dungeness crab caught seaward of Washington or Oregon or south of Point Reyes, California, as described at § 660.11 *Prohibited species,* must be discarded following instructions in the NMFS-accepted VMP per paragraph (e)(iii) of this section. For any ESA-listed seabirds that are brought on board, vessel operators must follow any relevant instructions for handling and disposition under § 660.21(c)(1)(v).

(iv) Crabs, starfish, coral, sponges, and other invertebrates may be discarded.

(v) Trash, mud, rocks, and other inorganic debris may be discarded.

(vi) All discards must be discarded following instructions in the VMP per paragraph (e)(iii) of this section. All discards, regardless of the source, must be reported in the bottom trawl logbook, including the species (where possible), estimated weight, and reason for discard. The vessel operator is responsible for ensuring that all catch is handled in a manner that enables the EM system to record it.

(q) *Changes to retention requirements.* NMFS may specify alternate retention requirements in a NMFS-accepted VMP through the process described in paragraph (f) of this section, after consultation with the Council and issuance of a public notice notifying the public of the changes. Alternate retention requirements must be sufficient to provide NMFS with the best available information to determine individual accountability for catch, including discards, of IFQ species and compliance with requirements of the Shorebased IFQ Program (§ 660.140) and MS Coop Program (§ 660.150).

* * * * *

(s) * * *

(2) *Submission of logbooks.* Vessel operators must submit copies of the Federal discard logbook and state retained logbook to the vessel owner's contracted EM service provider and to NMFS or its agent within 24 hours of the end of each EM trip.

(3) * * *

(i) *Shorebased IFQ vessels.* EM data from an EM trip must be submitted within 72 hours after the beginning of the offload (and no more than 10 days after the end of the first trip on the hard drive).

(ii) *Mothership catcher vessels.* EM data from an EM trip must be submitted within 72 hours of the catcher vessel's return to port.

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[FR Doc. 2022–03516 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 40
Tuesday, March 1, 2022

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 23, 2022.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to 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.

Comments regarding these information collections are best assured of having their full effect if received by March 31, 2022. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency 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.

National Agricultural Statistics Service (NASS)

Title: 2022 Kentucky Equine Survey.

OMB Control Number: 0535–0264.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. NASS will conduct a survey of operations with equine that are farms and not farms.

Selected operators with equine in Kentucky will be asked to provide data on equine inventory by breed, type of use, income, expenses, assets, land area, workers employed and labor expenses.

General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204. This survey will be conducted on a full cost recovery basis with the Kentucky Horse Council providing funding under a cooperative agreement.

Need and use of the Information: Equine are a significant economic driver in Kentucky. Based on the 2012 Kentucky Equine Survey, the economic impact of the Kentucky equine industry was $3 billion. The information published from this request will be used by state government, local government, universities, businesses and potentially others, for the purpose of maintaining and growing the equine industry. Data will be used to make business and policy decisions.

Description of Respondents: Operators (farm and non-farm) with equine on July 1, 2022 in Kentucky.

Number of Respondents: 15,000.

Frequency of Responses: Reporting: Once a year.

Total Burden Hours: 5,775.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–04220 Filed 2–28–22; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0001]

Notice of Request for Extension of Approval of an Information Collection; Control of African Swine Fever; Restrictions on the Movement of Swine Products and Swine Byproducts From Puerto Rico and the U.S. Virgin Islands

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with control of African swine fever and restrictions on the movement of swine products and swine byproducts from Puerto Rico and the U.S. Virgin Islands.

DATES: We will consider all comments that we receive on or before May 2, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2022–0001 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–2022–0001, 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: For information on the control of African swine fever and restrictions on the movement of swine products and swine

byproducts, contact Dr. Dawn Hunter, Staff Trade Policy Advisor, Strategy and Policy, VS APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 851–3333; *Dawn.K.Hunter@usda.gov.* For information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Control of African Swine Fever; Restrictions on the Movement of Swine Products and Swine Byproducts From Puerto Rico and the U.S. Virgin Islands.

OMB Control Number: 0579–0480.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of the U.S. Department of Agriculture (USDA) is authorized to protect the health of the livestock, poultry, and aquaculture populations in the United States by preventing the introduction and interstate spread of serious diseases and pests of livestock, poultry, and aquaculture, and for eradicating such diseases and pests from the United States, when feasible. Within the USDA, this authority and mission is delegated to the Animal and Plant Health Inspection Service (APHIS).

Within APHIS, Veterinary Services (VS) is tasked with, among other things, preventing foreign animal disease outbreaks in the United States, and monitoring, controlling, and eliminating a disease outbreak should one occur. In the past several years, there have been significant worldwide outbreaks of African swine fever (ASF). ASF is a highly contagious and deadly viral disease affecting domestic and feral (wild) pigs. The disease has not been detected in the United States; however, APHIS is committed to working with State and industry partners to keep the disease out of the country.

The Dominican Republic is currently reporting a significant outbreak of ASF. While ASF is not known to occur in Puerto Rico or the U.S. Virgin Islands, they are in proximity to the Dominican Republic. Frequent passenger travel and international mail shipments occur between the Dominican Republic and Puerto Rico and the U.S. Virgin Islands, as well as frequent small-scale commercial agricultural trade. Thus, APHIS identified several pathways for the possible introduction of ASF from the Dominican Republic to Puerto Rico or the U.S. Virgin Islands. Moreover, there are known commercial and feral pig populations in both territories, and there were no restrictions on the interstate movement of live swine, swine germplasm, swine products, and swine byproducts from Puerto Rico or the U.S. Virgin Islands into the continental United States. Accordingly, APHIS suspended interstate movement of live swine, swine germplasm, and processed swine products and byproducts through issuance of a Federal Order (DA–2021–0002) [1] on September 17, 2021. In situations where a disease risk is sufficiently severe and fast-moving so that the regular regulatory process cannot provide adequate relief, APHIS employs Federal Orders to set trade restrictions quickly to control, eradicate, or prevent a disease threat.

Since the issuance of the Federal Order, APHIS has established sufficient mitigations to allow the movement of certain swine products and swine byproducts under specified conditions that mitigate the risk of spreading ASF through interstate commerce. As a result, on December 2, 2021, APHIS issued a Federal Order (DA–2021–0003) [2] to allow interstate movement of certain swine products and byproducts from Puerto Rico and the U.S. Virgin Islands under certain conditions. To certify compliance with this Federal Order and restriction guidelines for the intestate movement of swine products and byproducts from Puerto Rico and the U.S. Virgin Islands, commercial producers must meet the requirements as listed in the Federal Order or complete a VS Form 16–3, an application for a permit to import or transport controlled material or organisms or vectors.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: Commercial producers of swine products and byproducts and State animal health officials.

Estimated annual number of respondents: 22.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 40.

Estimated total annual burden on respondents: 60 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of February 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–04207 Filed 2–28–22; 8:45 am]

BILLING CODE 3410–34–P

[1] *https://www.aphis.usda.gov/animal_health/downloads/fed-order-suspend-swine-from-pr-vi.pdf.*

[2] *https://www.aphis.usda.gov/publications/animal_health/fo-asf-signed.pdf.*

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–21–BUSINESS–0037]

Inviting Applications for Value-Added Producer Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces that the Rural Business-Cooperative Service (Agency) is accepting applications for the Value-Added Producer Grant (VAPG) program. Approximately $17 million is currently available in Fiscal Year (FY) 2022 along with about $2.75 million in COVID–19 relief funds carried over from the Consolidated Appropriations Act, 2021 (the FY 2021 Appropriations Act) for a total of $19.75 million in funding. The Agency may also utilize any funding that becomes available through enactment of the FY 2022 appropriations. The Agency will publish the program funding level on the Rural Development website, *https://www.rd.usda.gov/newsroom/federal-funding-opportunities.* The COVID–19 relief funds allow for a reduced cost-

share match of 10 percent of the grant amount (*i.e.,* at least $1 from the applicant for every $10 in Agency grant funds) for these funds during the public health emergency. In the event the public health emergency ends, applicants would have to meet the VAPG program statutory match of 100 percent of the grant for these funds. You are not required to demonstrate how your business operations were impacted by the COVID–19 pandemic.

DATES: You must submit your complete paper application by May 2, 2022 or it will not be considered for funding. Paper applications must be postmarked and mailed, shipped or sent overnight by this date. You may also email or hand carry your application to one of our field offices, but it must be received by close of business on the deadline date.

Electronic applications are permitted via *https://www.grants.gov* only and must be received by 11:59 p.m. Eastern time on April 25, 2022. Late applications are not eligible for grant funding under this Notice.

ADDRESSES: To submit a paper application, send it to the State Office located in the state where your project will primarily take place. You can find State Office contact information at *http://www.rd.usda.gov/contact-us/state-offices.* To submit an application through email, contact your respective State Office before May 2, 2022 to obtain the Agency email address where you will submit your application. If you want to submit an application through *Grants.gov*, follow the instructions for the VAPG funding announcement on *https://www.grants.gov/.* Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/registration.html* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the *Grants.gov* application deadline.

You should contact your USDA Rural Development State Office if you have questions about eligibility or submission requirements. You are encouraged to contact your State Office well in advance of the application deadline to discuss your project and to ask any questions about the application process. Application materials are available at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

FOR FURTHER INFORMATION CONTACT: Mike Daniels at 715–345–7637, *mike.daniels@usda.gov* or Greg York at 202–281–5259 *gregory.york@usda.gov,* Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3226, Room 5801–S, Washington, DC 20250–3226.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency Name: Rural Business-Cooperative Service.

Funding Opportunity Title: Value-Added Producer Grant.

Announcement Type: Notice of Solicitation of Applications (NOSA).

Assistance Listing Number: 10.352.

Funding Opportunity Number (grants.gov): RDBCP–VAPG–2022.

Dates: Application Deadline. You must submit your complete paper application by May 2, 2022, or it will not be considered for funding. You may also hand carry or email your application to one of our field offices, but it must be received by close of business on May 2, 2022. Electronic applications must be received by *http://www.grants.gov* no later than 11:59 p.m. Eastern time on April 25, 2022, or it will not be considered for funding.

Administrative: The following apply to this NOSA:

(a) *Key Priorities:* The Agency encourages applicants to consider projects that will advance the following:

- Assisting Rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities;
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

(b) *Hemp Projects.* In determining eligibility for the applicant, project or use of funds, any project applying for funding under the Value-Added Producer Grant program and proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products, must have a valid license from an approved State, Tribal or Federal plan pursuant to Section 10113 of the 2018 Farm Bill, be in compliance with regulations published by the Agricultural Marketing Service at 7 CFR part 990, and meet any applicable U.S. Food and Drug Administration and U.S. Drug Enforcement Administration regulatory requirements. Verification of valid hemp licenses will occur prior to award.

(c) *Local Agriculture Marketing Program (LAMP) Food Safety Implementation:* Until Farm Bill implementation is finalized via the Agency rulemaking process, there will not be food safety reserve funding. Food safety training, certifications, and supplies that are eligible under the current program regulation may continue to be included in the work plan/budget.

A. Program Description

1. *Purpose of the Program.* The objective of this grant program is to assist viable Independent Producers, Agricultural Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Businesses in starting or expanding value-added activities related to the processing and/or marketing of Value-Added Agricultural Products. Grants will be awarded competitively for either planning or working capital projects directly related to the processing and/or marketing of value-added products. Generating new products, creating and expanding marketing opportunities, and increasing producer income are the end goals of the program. All proposals must demonstrate economic viability and sustainability to compete for funding.

2. *Statutory Authority:* The VAPG program is authorized under section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224), as amended by section 10102 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334) (see 7 U.S.C. 1627c). Applicants must adhere to the requirements contained in the program regulation, 7 CFR part 4284, subpart J, which is incorporated by reference in this Notice.

3. *Definitions.* The following definitions apply to this Notice:

(i) *Majority-Controlled Producer-Based Business Venture,* incorporated from Section 10102 of the Agriculture Improvement Act of 2018, means a venture greater than 50 percent of the ownership and control of which is held by—

(a) 1 or more producers; or

(b) 1 or more entities, 100 percent of the ownership and control of which is held by 1 or more producers. The term 'entity' means—

(1) a partnership;

(2) a limited liability corporation;

(3) a limited liability partnership; and

(4) a corporation.

(ii) *Market Expansion Project* means a project in which the Independent Producer applicant seeks to expand the market for an existing value-added product (produced and marketed by the applicant for at least 2 years at the time of application) through sales to demonstrably new markets or to new customers in existing markets.

(iii) Additional terms you need to understand are defined in 7 CFR 4284.902.

4. *Application of Awards.* Applications will be reviewed,

processed and scored as described at 7 CFR 4284.940 and 4284.942. See Section E, Review and Selection Process, of this Notice for additional information.

Funds will be awarded in application scoring rank order. COVID–19 relief funds will be utilized first until exhausted and then the Agency will continue making awards with the additional FY 2021 and FY 2022 funds.

Funding priority will be made available to Beginning Farmers and Ranchers, Veteran Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, Operators of Small and Medium-Sized Farms and Ranches structured as Family Farms or Ranches, Farmer or Rancher Cooperatives, and projects proposing to develop a Mid-Tier Value Chain. See 7 CFR 4284.923 for Reserved Funds eligibility and 7 CFR 4284.924 for Priority Scoring eligibility.

B. Federal Award Information

Type of Awards: Grant.

Available Funding: Approximately $17 million is currently available in FY 2022 along with about $2.75 million in COVID–19 relief funding carried over from the FY 2021 Appropriations Act for a total of $19.75 million in funding.

Maximum Award Amount: Planning—$75,000; Working Capital—$250,000.

Project Period: Up to 36 months depending on the complexity of the project.

Anticipated Award Date: September 30, 2022.

Reservation of Funds: Ten percent of available funds for applications will be reserved for applicants qualifying as Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers. An additional 10 percent of available funds for applications from farmers or ranchers proposing development of Mid-Tier Value Chains will be reserved. Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers and applicants proposing Mid-Tier Value Chains not awarded for reserved funds will compete with other eligible VAPG applications. In addition, any funds that become available for persistent poverty counties through enactment of FY 2022 appropriations will be allocated for assistance in persistent poverty counties. Funds not obligated from these reserves by September 30, 2022, will be used for the VAPG general competition and made available in a subsequent application cycle.

C. Eligibility Information

Applicants must comply with the program regulation 7 CFR part 4284, subpart J to meet all of the following eligibility requirements. Required documentation is included in the application package. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

1. *Eligible Applicants.* You must demonstrate within the application narrative that you meet all of the applicant eligibility requirements of 7 CFR 4284.920 and 4284.921. This includes meeting the definition requirements at 7 CFR 4284.902 by demonstrating how you meet the definition for Agricultural Producer (*i.e.,* how you participate in the ''day to day labor, management, and field operations'') of your agricultural enterprise); how you qualify for one of the following applicant types: Independent Producer, Agricultural Producer Group, Farmer or Rancher Cooperative or Majority-Controlled Producer-Based Business Venture; and whether you meet the Emerging Market, Citizenship, Legal Authority and Responsibility, Multiple Grants and Active Grants requirements of the section. Required documentation to support eligibility is contained at 7 CFR 4284.931 and in the application package.

Federally-recognized tribes and tribal entities must demonstrate that they meet the definition requirements for one of the four eligible applicant types. Rural Development State Offices and posted application toolkits will provide additional information on tribal eligibility.

Per 7 CFR 4284.921, an applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' The Agency will check the Do Not Pay (DNP) system to determine if the applicant has been debarred or suspended. In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt. Per the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) 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, is not eligible for financial assistance provided with funds appropriated by this or any other act, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. It is possible that a comparable provision will be included in the appropriations act for FY 2022.

Per 7 CFR 4284.905(a), Applicants must comply with other applicable Federal laws. Applicants who are proposing working capital grants to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise must comply with Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations, including but not limited to permitting, filing of taxes and operational reports. Please visit TTB's website at *https://www.ttb.gov/* for more information. If you are not in compliance with TTB's requirements, the Agency may determine that you are not qualified to receive a Federal award and use that determination as a basis for making an award to another applicant. If, at any time after you have already received a VAPG award, you are found to be in noncompliance with TTB's operational reporting or tax requirements, the Agency may determine that you are not in compliance with your grant terms and conditions.

2. *Cost-Sharing or Matching.* COVID–19 relief funds may include a reduced cost share match requirement of 10 percent of the grant amount. The other available funds have a statutory cost share match requirement of 100 percent of the grant amount.

Funds will be awarded in application scoring rank order. COVID–19 relief funds will be utilized first until exhausted and then the Agency will continue making awards with the additional FY 2021 funds and any funds made available under the FY 2022 appropriations act, once enacted. To be considered for both the COVID–19 relief funds and the FY 2021 or 2022 VAPG funds, you must submit a budget with a reduced cost share match of at least $1 for every $10 in grant funds and an alternate second budget that includes the standard cost-share match of at least $1 for every $1 in grant funds. The second budget will allow your application to compete further for the additional FY 2021 and 2022 funding. If you choose to apply for COVID–19 relief funds or the additional FY 2021 and FY 2022 funding only, you will need to

ensure that you have the applicable cost share match in your budget. Applicants unable to meet the standard cost-share match will be ineligible to compete for the additional FY 2021 and 2022 funding. Applicants submitting an alternate second budget will not be rescored before competing for the FY 2021 and 2022 funding.

Matching funds may be in the form of cash or eligible in-kind contributions. Matching contributions and grant funds may be used only for eligible project purposes, including any contributions exceeding the minimum amount required. Applicant matching contributions in the form of raw commodity, time contributed to the project, or goods or services for which no out-of-pocket expenditure is made during the grant period, must be characterized as in-kind contributions. Donations of goods and services from third-parties must be characterized as in-kind contributions. Tribal applicants may utilize grants made available under Public Law 93–638, the Indian Self-Determination and Education Assistance Act of 1975, as their matching contribution, and should check with appropriate tribal authorities regarding the availability of such funding.

Matching funds must be available at the time of application and must be certified and verified as described in 7 CFR 4284.931(b)(3) and (4). Do not include *projected* income as a matching contribution because it cannot be verified as available. Note that matching funds must also be discussed as part of the scoring criterion Commitments and Support as described in section E.1.(iii).

3. *Project Eligibility.* You must demonstrate within the application narrative that your project meets all the project eligibility requirements of 7 CFR 4284.922.

(i) *Product eligibility.* Applicants for both planning and working capital grants must meet all requirements at 7 CFR 4284.922(a), including that your value-added product must result from one of the five methodologies identified in the definition of Value-Added Agricultural Product at 7 CFR 4284.902. In addition, you must demonstrate that, as a result of the project, the customer base for the agricultural commodity or value-added product will be expanded, by including a baseline of current customers for the commodity, and an estimated target number of customers that will result from the project; and that, a greater portion of the revenue derived from the marketing or processing of the value-added product is available to the applicant producer(s) of the agricultural commodity, by including a baseline of current revenues from the sale of the agricultural commodity and an estimate of increased revenues that will result from the project. Note that working capital grants for market expansion projects per 7 CFR 4284.922(b) must demonstrate expanded customer base and increased revenue resulting only from sales of existing products to new customers. The VAPG recognizes that market expansion projects may involve marketing and promotion activities such as trade shows, farmers markets, and various media advertising which also result in increased sales to existing customers. However, market expansion award recipients must use grant and matching funds only on activities that demonstrably focus on marketing products they have produced and sold for at least two years, to new markets and/or to new customers in existing markets, such that the producer's customer base (number of customers) is expanded, per program requirements. Grant and matching funds cannot be deliberately expended on sales of existing products to existing customers.

In addition, per the Agriculture Improvement Act of 2018, working capital applications must include a statement describing the direct or indirect producer benefits intended to result from the proposed project within a reasonable period of time after the receipt of a grant.

(ii) *Purpose eligibility.* Applicants for both planning and working capital grants must meet all requirements at 7 CFR 4284.922(b) regarding maximum grant amounts, verification of matching funds, eligible and ineligible uses of grant and matching funds, and a substantive, detailed work plan and budget.

(a) *Planning grants.* A planning grant is used to fund development of a defined program of economic planning activities to determine the viability of a potential value-added venture, specifically for paying a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product. Planning grant funds may not be used to fund working capital activities.

(b) *Working capital grants.* This type of grant provides funds to operate a value-added project, specifically to pay the eligible project expenses directly related to the processing and/or marketing of the value-added products that are eligible uses of grant funds. Working capital funds may not be used for planning purposes.

(iii) *Reserved funds eligibility.* To qualify for reserved funds as a Beginning, Veteran, or Socially-Disadvantaged Farmer or Rancher or if you propose to develop a Mid-Tier Value Chain, you must meet the requirements found at 7 CFR 4284.923. If your application is eligible, but is not awarded under the reserved funds, it will automatically be considered for general funds in that same fiscal year, as funding levels permit.

(iv) *Priority points.* To qualify for priority points for projects that contribute to increasing opportunities for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, or if you are an Operator of a small or medium-sized farm or ranch structured as a Family Farm, a Veteran Farmer or Rancher, propose a Mid-Tier Value Chain project, or are a Farmer or Rancher Cooperative, you must meet the applicable eligibility requirements at 7 CFR 4284.923 and 4284.924 and must address the relevant proposal evaluation criterion.

Priority points will also be awarded during the scoring process to eligible Agricultural Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer-Based Business Ventures that best contribute to creating or increasing marketing opportunities for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, and/or Veteran Farmers or Ranchers. You must meet the eligibility requirements at 7 CFR 4284.923 and 4284.924 and must address the relevant proposal evaluation criterion.

4. *Eligible Uses of Grant and Matching Funds.* Eligible uses of grant and matching funds are discussed, along with examples, in 7 CFR 4284.925. In general, grant and cost-share matching funds have the same use restrictions and must be used to fund only the costs for eligible purposes as defined at 7 CFR 4284.925(a) and (b).

5. *Ineligible Uses of Grant and Matching Funds.* Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a personal, professional, financial or other interest in the outcome of the project, including organizational conflicts, and conflicts that restrict open and free competition for unrestrained trade. A list (not all-inclusive) of ineligible uses of grant and matching funds is found in 7 CFR 4284.926.

6. *Other.* An applicant may submit only one application in response to a solicitation and must explicitly direct that it competes in either the general

funds competition or in one of the named reserved funds competitions. Multiple applications from separate entities with identical or greater than 75 percent common ownership, or from a parent, subsidiary or affiliated organization (with ''affiliation'' defined by Small Business Administration regulation 13 CFR 121.103, or successor regulation) are not permitted. Further, Applicants who have already received a Planning Grant for the proposed project cannot receive another Planning Grant for the same project. Applicants who have already received a Working Capital Grant for the proposed project cannot receive any additional grants for that project (Proposals from previous award recipients should be substantially different in terms of products and/or markets and should not merely be extensions of previously funded projects).

D. Application and Submission Information

1. *Address to Request Application Package.* The application toolkit, regulation, and official program notification for this funding opportunity can be obtained online at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.* You may also contact your USDA Rural Development State Office by visiting *http://www.rd.usda.gov/contact-us/state-offices.* The toolkit contains an application checklist, templates, required grant forms, and instructions. Although the Agency highly recommends the use of the templates in the toolkit, it is not mandatory.

2. *Content and Form of Application Submission.* Applications may be submitted in paper form, by email or electronically through *Grants.gov*. Applications must contain all required information.

(i) *Electronic submission.* To apply electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept faxed applications.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Assistance Listing Number (included in the Overview Section) for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a Unique Entity Identifier (UEI) number and you must also be registered and maintain registration in SAM. The UEI is assigned by SAM and replaces the formerly known Dun & Bradstreet D–U–N–S Number. The UEI number must be associated with the correct tax identification number of the VAPG applicant. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

If you are submitting your application electronically, you must submit all of your application documents through *Grants.gov*.

After electronically applying through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

(ii) *Paper submission.* If you want to submit a paper or email application, send it to the State Office located in the state where your project will primarily take place. You can find State Office contact information at *http://www.rd.usda.gov/contact-us/state-offices*. An optional-use Agency application template is available online at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

(iii) *Application contents.* Your application must contain all the required forms and proposal elements described in 7 CFR 4284.931, unless otherwise clarified in this Notice. You are encouraged, but not required to utilize the Application Toolkits found at *http://www.rd.usda.gov/programs-services/value-added-producer-grants,* however, you must provide all of the information requested by the template. You must become familiar with the program regulation at 7 CFR part 4284, subpart J in order to submit a successful application. Basic application contents are outlined below:

(a) Standard Form (SF)–424, ''Application for Federal Assistance,'' to include your UEI number and SAM (CAGE) code and expiration date (or evidence that you have begun the SAM registration process). There are no specific fields for a CAGE code and expiration date; therefore, you may identify them anywhere on the form. If you do not include your UEI number in your application, it will not be considered for funding.

(b) SF–424A, ''Budget Information-Non-Construction Programs.'' This form must be completed and submitted as part of the application package.

(c) Permit. You must provide a valid permit or evidence of having begun the permitting process if you are proposing a working capital grant to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise.

(d) Producer license. You must provide a valid producer license issued by a state, tribe, or USDA, as applicable, or in accordance with 7 CFR part 990 if you are proposing to market value-added hemp products.

(e) Executive Summary and Abstract. A one-page Executive Summary containing the following information: Legal name of applicant entity, application type (planning or working capital), applicant type, amount of grant request, a summary of your project, and whether you are submitting a simplified application, and whether you are requesting reserved funds. Also include a separate abstract of up to 100 words briefly describing your project.

(f) Eligibility discussion.

(g) Work plan and budget.

(h) Performance evaluation criteria.

(i) Proposal evaluation criteria.

(j) Certification and verification of matching funds.

(k) Reserved Funds and Priority Point documentation (as applicable).

(l) Feasibility studies, business plans, and/or marketing plans, as applicable.

(m) Appendices containing required supporting documentation.

3. *System for Awards Management (SAM) and assigned UEI.* Each applicant applying for grant funds must be registered in SAM before submitting its application and provide a valid UEI, unless determined exempt under 2 CFR 25.110(b), (c) or (d). You may register in SAM at no cost at *https://www.sam.gov/SAM/*.

(i) Applicants must maintain an active SAM registration with current, accurate and complete information at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(ii) Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(iii) The Agency will not make an award until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. Please refer to Section F.2 for additional submission requirements that apply to grantees selected for this program.

4. *Submission Dates and Times.* Paper applications must be postmarked and mailed, shipped, or sent overnight by May 2, 2022. The Agency will determine whether your application is late based on the date shown on the postmark or shipping invoice. You may

also hand carry or email your application to one of our field offices, but it must be received by close of business on the deadline date. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day. Late applications will automatically be considered ineligible and will not be evaluated further.

Electronic applications must be received at *http://www.grants.gov* no later than 11:59 p.m. Eastern time, April 25, 2022 to be eligible for funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/registration.html* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with state and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. A list of states that maintain a SPOC may be obtained at *https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf.* If your state has a SPOC, you must submit your application directly for review. Any comments obtained through the SPOC must be provided to RD for consideration as part of your application. If your state has not established a SPOC or you do not want to submit your application to the SPOC, RD will submit your application to the SPOC or other appropriate agency or agencies. Applications from federally recognized Indian tribes are not subject to Intergovernmental Review.

6. *Funding Restrictions.* Funding limitations and reservations found in the program regulation at 7 CFR 4284.927 will apply, including:

(i) *Use of Funds.* Grant and matching funds may only be used for eligible purposes. (See examples of eligible and ineligible uses in 7 CFR 4284.925 and 4284.926, respectively). Grant funds may not be used to pay any costs of the project incurred prior to the date of grant approval.

(ii) *Grant Period (project period).* Your project timeframe or grant period can be a maximum of 36 months in length from the date of award, depending on the complexity of your project. Your proposed grant period should begin no earlier than the anticipated award announcement date in this Notice and should end no later than 36 months following that date. If you receive an award, your grant period will be revised to begin on the actual date of award—the date the grant agreement is executed by the Agency—and your grant period end date will be adjusted accordingly. Your project activities should begin within 90 days of that date of award. The length of your grant period should be based on your project's complexity, as indicated in your application work plan. For example, it is expected that most planning grants can be completed within 12 months.

(iii) *Program Income.* If income (Program Income) is earned during the grant period as a result of the project activities, it is subject to the requirements in 2 CFR 200.307, and must be managed and reported accordingly.

(iv) *Majority Controlled Producer-Based Business.* The total amount of funds awarded to Majority Controlled Producer-Based Businesses in response to this announcement shall not exceed 10 percent of the total funds obligated for the program during the fiscal year.

(v) *Reserved Funds.* Ten percent of all funds available will be reserved to fund projects that benefit Beginning Farmers or Ranchers, Veteran Farmers or Ranchers, or Socially-Disadvantaged Farmers or Ranchers. In addition, 10 percent of total funding available will be used to fund projects that propose development of Mid-Tier Value Chains as part of a Local or Regional Supply Network. See related definitions in 7 CFR 4284.902. In addition, any funds that become available for persistent poverty counties through enactment of FY 2022 appropriations will be allocated for assistance in persistent poverty counties.

(vi) *Disposition of Reserved Funds Not Obligated.* For this Notice, any reserved funds that have not been obligated by September 30, 2022, will be available to the Secretary to make VAPG grants in accordance with Section 210A(i)(3)(A)(ii) of the Agricultural Marketing Act of 1946, as amended.

7. *Other Submission Requirements.* Applications may be submitted in paper form, by email or electronically through *Grants.gov*. Faxed applications will not be accepted.

E. Application Review Information

Applications will be reviewed and processed as described at 7 CFR 4284.940. The Agency will review your application to determine if it is complete and eligible. If at any time, the Agency determines that your application is ineligible, you will be notified in writing as to the reasons it was determined ineligible, and you will be informed of your review and appeal rights. Funding of successfully appealed applications will be limited to available funds.

The Agency will only score applications in which the applicant and project are eligible, which are complete and sufficiently responsive to program requirements, and in which the Agency agrees on the likelihood of financial feasibility for working capital requests. We will score your application according to the procedures and criteria specified in 7 CFR 4284.942, and with tiered scoring thresholds as specified below.

1. *Scoring Criteria.* For each criterion, you must show how the project has merit and why it is likely to be successful. Your complete response to each criterion must be included in the body of the application, including summarizations of any feasibility studies, business and marketing plans. If you do not address all parts of the criterion, or do not sufficiently communicate relevant project information, you will receive lower scores. The VAPG is a competitive program, so you will receive scores based on the quality of your responses. Simply addressing the criteria will not guarantee higher scores. The maximum number of points that can be awarded to your application is 100. For this Notice, the minimum score requirement for funding is 50 points.

The Agency application toolkit provides additional instructions to help you to respond to the criteria below.

(i) *Nature of the proposed venture (graduated score 0–30 points).* For both planning and working capital grants, you must discuss the technological feasibility of the project, as well as operational efficiency, profitability, and overall economic sustainability resulting from the project. You must also demonstrate the potential for expanding the customer base for the agricultural commodity or value-added product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw agricultural commodity to the project. Working capital applicants must also provide the potential number of jobs that will result from the project, along with a justifiable basis for these projections. Please see the application template for more information. All applicants must reference and summarize third-party data and other information that specifically supports your value-added project; discuss the value-added process you are proposing; potential markets and distribution

channels; the value to be added to the raw commodity through the value-added process; cost and availability of inputs, your experience in marketing the proposed or similar product; business financial statements; and any other relevant information that supports the viability of your project. Working capital applicants should demonstrate that these outcomes will result from the project and include supportable projections of increase in customer base, revenue returned to producers and jobs resulting from the project in order to receive up to the maximum number of points. Planning grant applicants should describe the expected results, and the reasons supporting those expectations.

Points will be awarded as follows:

(a) 0 points will be awarded if you do not address the criterion.

(b) 1–5 points will be awarded if you do not address each of the following: Technological feasibility, operational efficiency, profitability, and overall economic sustainability.

(c) 6–13 points will be awarded if you address technological feasibility, operational efficiency, profitability, and overall economic sustainability, but do not reference third-party information that supports the success of your project.

(d) 14–22 points will be awarded if you address technological feasibility, operational efficiency, profitability, and overall economic, supported by third-party information demonstrating a reasonable likelihood of success.

(e) 23–30 points will be awarded if all criterion components are well addressed, supported by third-party information, and demonstrate a high likelihood of success.

(ii) *Qualifications of project personnel (graduated score 0–20 points).* You must identify all individuals who will be responsible for managing and completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and show that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, or to develop a business operations plan for the value-added venture. You must include the qualifications of those individuals responsible for leading or managing the total project (applicant owners or project managers), as well as those individuals responsible for conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). You must discuss the commitment and the availability of any consultants or other professionals to be hired for the project; especially those who may be consulting on multiple VAPG projects. If staff or consultants have not been selected at the time of application, you must provide specific descriptions of the qualifications required for the positions to be filled. Applications that demonstrate the strong credentials, education, capabilities, experience and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas.

Points will be awarded as follows:

(a) 0 points will be awarded if you do not address the criterion.

(b) 1–4 points will be awarded if qualifications and experience of all staff is not addressed and/or if necessary, qualifications of unfilled positions are not provided.

(c) 5–9 points will be awarded if all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(d) 10–14 points will be awarded if most key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(e) 15–20 points will be awarded if all personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

(iii) *Commitments and support (graduated score 0–10 points).* Producer, end-user, and third-party commitments will be evaluated under this criterion. Sole proprietors can receive a maximum of 9 points. Multiple producer applications can receive a maximum of 10 points.

(a) Producer commitments to the project will be evaluated based on the number of named and documented independent producers currently involved in the project; and the nature, level and quality of their contributions.

(b) End-user commitments will be evaluated based on potential or identified markets and the potential amount of output to be purchased, as indicated by letters of intent or contracts (purchase orders) from potential buyers referenced within the application. Applications that demonstrate documented intent to purchase the value-added product will receive more points. Note that for planning grants, this criterion can be addressed by evidence of interest or support from identified or potential customers.

(c) Third-party commitments to the project will be evaluated based on the critical and tangible nature of their contribution to the project, such as technical assistance, storage, processing, marketing, or distribution arrangements that are necessary for the project to proceed; and the level and quality of these contributions. Applications that demonstrate strong technical and logistical support to successfully complete the project will receive more points.

Letters of commitment by producers, end-users, and third-parties should be summarized as part of your response to this criterion, and the letters must be included in Appendix B. Please note that VAPG does not require Congressional letters of support, nor do they carry any extra weight during the evaluation process.

Points will be awarded as follows:

(1) 0 points will be awarded if you do not address the criterion.

(2) Independent Producer Commitment.

(i) Sole Proprietor (one owner/producer): 1 point

(ii) Multiple Independent Producers (note that in cases where family members, such as husband and wife, are eligible Independent Producers, each family member will count as one Independent Producer): 2 points

(3) End-user commitment:

(i) No, or insufficiently documented, commitment from end-users: 0 points

(ii) Well-documented commitment from one end-user: 2 point

(iii) Well-documented commitment from more than one end-user: 4 points

(4) Third-party commitment:

(i) No, or insufficiently documented, commitment from third-parties: 0 points

(ii) Well-documented commitment from one third-party: 2 point

(iii) Well-documented commitment from more than one third-party: 4 points

(iv) *Work plan and budget (graduated score 0–20 points).* You must submit a comprehensive work plan and budget (for full details, see 7 CFR 4284.922(b)(5)). Your work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown and description of all estimated costs of project activities (including source and basis for their valuation) and allocate those costs among the listed tasks, as instructed in the application package. You must show the source and use of both grant and matching funds for all tasks. Matching funds must be spent at a rate equal to, or in advance of, grant funds. An eligible start and end date for the entire project, as well as for each individual project task must be clearly shown. The project timeframe must not exceed 36 months and should be scaled to the complexity of the project.

Working capital applications must include an estimate of program income expected to be earned during the grant period (see 2 CFR 200.307).

Points will be awarded as follows:

(a) 0 points will be awarded if you do not address the criterion.

(b) 1–7 points will be awarded if the work plan and budget do not account for all project goals, tasks, costs, timelines, and responsible personnel.

(c) 8–14 points will be awarded if you provide a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a reasonable likelihood of success.

(d) 15–20 points will be awarded if you provide a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a high likelihood of success.

(v) *Priority points up to 10 points (lump sum 0 or 5 points plus, graduated score 0–5 points).* It is recommended that you use the Agency application package when applying for priority points and refer to the requirements specified in 7 CFR 4284.924. Priority points may be awarded in both the general funds and reserved funds competitions.

(a) 5 points will be awarded if you meet the requirements for one of the following categories and provide the documentation described in 7 CFR 4284.923 and 4284.924 as applicable: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, or Operator of a Small or Medium-sized Farm or Ranch that is structured as a Family Farm, Farmer or Rancher Cooperative, or are proposing a Mid-Tier Value Chain project.

(b) Up to 5 priority points will be awarded if you are an Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture (referred to below as ''applicant group'') whose project ''best contributes to creating or increasing marketing opportunities'' for Operators of Small and Medium-sized Farms and Ranches that are structured as Family Farms, Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, and Veteran Farmers and Ranchers (referred to below as ''priority groups''). For each of the priority point levels below, applications must demonstrate how the proposed project will contribute to new or increased marketing opportunities for respective priority groups. Guidance on relevant information required to adequately demonstrate this requirement can be found in the program application package.

(1) 2 priority points will be awarded if the existing membership of the applicant group is comprised of either more than 50 percent of any one of the four priority groups or more than 50 percent of any combination of the four priority groups.

(2) 1 additional priority point will be awarded if the existing membership of the applicant group is comprised of two or more of the priority groups. One point is awarded regardless of whether a group's membership is comprised of two, three, or all four of the priority groups.

(3) 2 additional priority points will be awarded if the applicant's proposed project will increase the number of priority groups that comprise applicant membership by one or more priority groups. However, if an applicant group's membership is already comprised of all four priority groups, such an applicant would not be eligible for points under this criterion because there is no opportunity to increase the number of priority groups. Note also that this criterion does not consider either the percentage of the existing membership that is comprised of the four priority groups or the number of priority groups currently comprising the applicant group's membership.

(vi) *Administrator priority categories (graduated score 0–10 points).* The Administrator of the Agency may choose to award priority points to improve the geographic diversity of awardees and to applications for projects that will advance RD Key Priorities (*https://www.rd.usda.gov/priority-points*) as defined and measured on the RD Key Priorities website.

(a) Applications may be awarded up to a total of 10 points for the following three priorities:

(1) Assisting rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities. Proposals where the project is located in or serving one of the top 10% of counties or county equivalents based upon county risk score in the United States. Information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(2) Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. Direct technical assistance to a project located in or serving a community with a score 0.75 or above on the CDC Social Vulnerability Index. Information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(3) Reduce climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. Direct technical assistance to a project addressing climate impacts shown as either quantitative or qualitative. Additional information on this priority may be found at: *https://www.rd.usda.gov/priority-points.*

(i) *Quantitative:* Project is located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier of the Distressed Communities Index.

(ii) *Qualitative:* Demonstrating how proposed climate-impact projects improve the livelihoods of community residents and meet pollution mitigation or clean energy goals.

(b) The Agency will automatically confirm if the project is located in an area qualifying for these priorities. However, you can provide a written narrative in the application (will be noted in the application toolkits) on how your project reduces climate pollution and increases resilience to the impacts of climate change if the project is not located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier.

2. *Review and Selection Process.* The Agency will select applications for award under this Notice in accordance with the provisions specified in 7 CFR 4284.950(a).

If your application is eligible and complete, it will be qualitatively scored by at least two reviewers based on criteria specified in section E.1. of this Notice. One of these reviewers will be an experienced RD employee from your servicing State Office and at least one additional reviewer will be a non-Federal, independent reviewer, who must meet the following qualifications. Independent reviewers must have at least a bachelor's degree in one or more of the following fields: Agri-business, agricultural economics, agriculture, animal science, business, marketing, economics or finance; or a minimum of 8 years of experience in an agriculture-related field (*e.g.,* farming, marketing, consulting, or research; or as university faculty, trade association official, or non-Federal government official in an agriculturally-related field). Each reviewer will score evaluation criteria (i) through (iv) and the totals for each reviewer will be added together and averaged. The RD State Office reviewer will also assign priority points based on criterion (v) in section E.1. of this

Notice. These will be added to the average score. The sum of these scores will be ranked highest to lowest and this will comprise the initial ranking. To become a non-federal independent reviewer, please contact Grant Solutions at *vapgreview@grantreview.org.*

The Administrator of the Agency may choose to award up to 10 Administrator priority points based on criteria (vi) in section E.1. of this Notice. These points will be added to the cumulative score for a total possible score of 100.

A final ranking will be obtained based solely on the scores received for criteria (i) through (v). A minimum score of 50 points is required for funding. Applications for reserved funds will be funded in rank order until funds are depleted. Unfunded reserve applications will be returned to the general funds where applications will be funded in rank order until the funds are expended. Funding for Majority Controlled Producer-Based Business Ventures is limited to 10 percent of total grant funds expected to be obligated as a result of this Notice. These applications will be funded in rank order until the funding limitation has been reached. Grants to these applicants from reserved funds will count against this funding limitation. In the event of tied scores, the Administrator shall have discretion in breaking ties.

If your application is ranked, but not funded, it will not be carried forward into the next application funding cycle.

F. Federal Award Administration Information

1. *Federal Award Notices.* If you are selected for funding, you will receive a signed notice of Federal award containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available funding.

2. *Administrative and National Policy Requirements.* Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4284, subpart J; the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 200, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

In addition, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). More information on these requirements can be found at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

The following additional requirements apply to grantees selected for this program:

(i) Agency approved Financial Assistance Agreement.

(ii) Letter of Conditions.

(iii) Form RD 1940–1, ''Request for Obligation of Funds.''

(iv) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(v) Use Form SF 270, ''Request for Advance or Reimbursement.''

3. *Reporting.* After grant approval and through grant completion, you will be required to provide the following, as indicated in the Financial Assistance Agreement:

(i) An SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Financial Assistance Agreement.

(ii) A final project and financial status report within 120 days after the expiration or termination of the grant.

(iii) Provide outcome project performance reports and final deliverables.

G. Federal Awarding Agency Contacts

If you have questions about this Notice, please contact the State Office as identified in the **ADDRESSES** section of this Notice. You are also encouraged to visit the application website for application tools, including an application guide and templates. The website address is: *http://www.rd.usda.gov/programs-services/value-added-producer-grants.* You may also contact National Office staff at *CPGrants@wdc.usda.gov* or call the main line at (202) 720–1400.

H. Other Information

(1) *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0064.

(2) *National Environmental Policy Act.* This Notice has been reviewed in accordance with 7 CFR part 1970, ''Environmental Policies and Procedures,'' and it has been determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act (NEPA) regulation found at 7 CFR 1970.53(f). We have determined that this Notice does not constitute a major Federal action significantly affecting the quality of the human environment.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970 and whether proposed financial assistance by the Agency would have a disproportionately high and adverse human health or environmental effect on minority or low-income populations. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

(3) *Civil Rights Compliance Requirements.* All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973.

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

Program information may be available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA

through the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of the alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2022–04293 Filed 2–28–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket #: RUS–22–ELECTRIC–0011]

Badger State Solar, LLC; Notice of Availability of a Draft Environmental Impact Statement and Notice of Public Meeting

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of a draft environmental impact statement and notice of public meeting.

SUMMARY: The Rural Utilities Service (RUS) announces that a Draft Environmental Impact Statement (EIS) for a project proposed by Badger State Solar, LLC is available for public review and comment. RUS is publishing the Draft EIS to inform interested parties and the general public about the project proposal and to invite the public to comment on the scope, Proposed Action, and other issues addressed in the Draft EIS. The Draft EIS was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA, and RUS, Environmental Policies and Procedures and evaluates the potential direct, indirect, and cumulative environmental effects related to providing financial assistance for the Badger State Solar, LLC's Alternating Current solar project (Project). Badger State Solar intends to request financial assistance from RUS for the Proposed Action and information contained in the EIS will serve as a basis for the decision regarding whether to provide the requested financial assistance. RUS has determined that its action regarding the Proposed Action is an undertaking subject to review under Section 106 of the National Historic Preservation Act and its implementing regulation, ''Protection of Historic Properties'' and as part of its broad environmental review process, RUS must take into account the effect of the Proposed Action on historic properties. With this notice, RUS invites any affected federal, state, and local agencies, Tribes, and other interested persons to comment on the scope, alternatives, and significant issues to be analyzed in depth in the EIS.

DATES: Written comments on this Draft EIS must be received during the comment period, which begins March 4th and ends April 18th. A public meeting to solicit comments on the Draft EIS will be held in a virtual format on Tuesday, March 22nd, at 7 p.m. EST via Zoom. Written comments may be submitted via email to *BadgerStateSolarEIS@usda.gov* or by mail as noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Those wishing to attend the meeting are invited to register online at the virtual public meeting room website *https://badgerstatesolar.consultation.ai.* An email will be sent to registrants with information for how to access the meeting. Attendees will be able to provide oral and written comments during the meeting. Oral comments from the public will be recorded by a certified court reporter. The virtual public meeting room is an interactive website which will be available throughout the public comment period. Attendees will also be able to submit written comments through the virtual public meeting room website. All comments submitted during the public review period, oral or written, will become part of the public record. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. All comments will be reviewed and responded to in the Final EIS. For consideration in the Final EIS, comments must be postmarked or received online by 11:59 p.m. EST on Monday, April 18th.

ADDRESSES: The Draft EIS and other Project-related information is available at RUS's and Badger State Solar's websites located at: *https://www.rd.usda.gov/resources/environmental-studies/impact-statements, https://badgerstatesolar.consultation.ai,* and *https://www.badgerstatesolar.com.*

In addition, hard copies of the documents are available at the Jefferson Public Library in Jefferson, WI, the Cambridge Community Library in Cambridge, WI and the Lake Mills Library in Lake Mills, WI. Parties wishing to be placed on the mailing list for future information or to receive hard or electronic copies of the EIS should also contact the person contact below.

FOR FURTHER INFORMATION CONTACT: Questions can be directed to Peter Steinour, 202–961–6140, *BadgerStateSolarEIS@usda.gov* during the open comment period. Comments submitted after the comment period may not be considered by the agency. This email address may also be used to request consulting party status and to inquire about additional information.

Written comments may also be submitted by mail to United States Department of Agriculture, Attention: Peter Steinour, Mail Stop 1570, Rural Utilities Service, WEP/EES, 1400 Independence Ave. SW, Washington, DC 20250 during the open comment period. Comments submitted after the comment period may not be considered by the agency. This mail address may also be used to request consulting party status and to inquire about additional information.

Project-related information will be available at RUS's and Badger State Solar's websites located at: *https://www.rd.usda.gov/resources/environmental-studies/impact-statements, https://badgerstatesolar.consultation.ai,* and *https://www.badgerstatesolar.com.*

Due to the COVID–19 pandemic, electronic communication is preferred because delivery of hard copies by mail may not be delivered in a timely manner.

SUPPLEMENTARY INFORMATION:

1. Agencies Involved and Status

Rural Utilities Service, Lead Agency
United States Army Corps of Engineers, Consulting Party for Section 106

United States Fish and Wildlife, Participating Agency

2. Project Description and Location

Badger State Solar proposes to construct, install, operate, and maintain a 149-megawatt photovoltaic Alternating Current solar energy generating facility on a site in the Townships of Jefferson and Oakland, in Jefferson County, Wisconsin. The Proposed Action involves approximately 1,200 acres located on the north and south sides of U.S. Highway 18, approximately 2-miles west of the City of Jefferson and west of State Highway 89. Site land cover is predominantly agricultural crops and pasture, with some forest and wetland. Bader State Solar estimates the total project cost will be approximately $225,000,000. Project construction would begin in October 2022. Construction would be complete and the project would be expected to come online by Fall 2023.

Construction involves the installation on leased lands of 487,848 single-axis tracking PV panels. The PV panels would be mounted on a steel racking frame. Supporting facilities include an electrical substation. The lease agreement allows for an operating period of 40 years. A power purchase agreement (PPA) has been executed with Dairyland Power Cooperative for the entire output of the Project. The proposed site is near the point of interconnection to the grid at the American Transmission Company Jefferson substation near the intersection of State Trunk Highway 89 and U.S. Highway 18.

Construction equipment would include graders, bulldozers, excavators, forklifts, trailers, plows, trenchers, pile drivers, and directional boring rigs. Vehicles for transporting construction materials and components primarily would be legal load over-the road flatbed and box trucks. Transport would use existing regional roads, bridges, and intersections. Laydown areas would be established within the Project site. Internal site access roads would be required. The site would be fenced.

3. Purpose and Need for the Action

The Rural Electrification Act of 1936 (REA), as amended (7 U.S.C. 901 *et seq.*) authorizes the Secretary of Agriculture to make rural electrification and telecommunication loans, and specifies eligible borrowers, references, purposes, terms and conditions, and security requirements. RUS is authorized to make loans and loan guarantees to finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand-side management, electricity conservation programs, and on- and off-grid renewable electricity systems.

The Applicant intends to request financing assistance from RUS for the Project's 149–MW solar array in Jefferson County, Wisconsin. RUS's proposed federal action is to decide whether to provide financing assistance for the Project.

As part of its review process, RUS is required to complete the NEPA process along with other technical and financial considerations in processing the Applicant's application. RUS agency actions include the following:

1. Provide engineering reviews of the purpose and need, engineering feasibility, and cost of the Project.

2. Ensure that the Project meets the borrower's requirements and prudent utility practices.

3. Evaluate the financial ability of the borrower to repay its potential financial obligations to RUS.

4. Ensure that NEPA and other environmental laws and requirements and RUS environmental policies and procedures are satisfied prior to taking a federal action.

While RUS is authorized under REA to finance electric generation infrastructure in rural areas, it is the Midcontinent Independent System Operator, Inc. (MISO), not RUS, who is responsible for electric grid planning. Supporting renewable energy projects meets both RUS's goal to support infrastructure development in rural communities and USDA's support of the June 2013 Climate Action Plan, which encourages voluntary actions to increase energy independence.

The Applicant's purpose and need for the Proposed Action is to develop a utility-scale solar facility in Jefferson County, Wisconsin, to replace load demand on local utilities, including Dairyland Power, resulting from coal-fired power plant closures or scheduled decommissioning.

4. Issues of Concern

In the EIS, the effects of the proposal are compared to the existing conditions in the affected area of the proposal. Issues of concern evaluated in the EIS include soils and geology, water resources, air quality, acoustic environment, biological resources, land resources, visual resources, transportation, cultural resources, site contamination public health and safety, socioeconomics, and environmental justice.

Badger State has submitted an Application for a Certificate of Public Convenience and Necessity (CPCN) to the Public Service Commission of Wisconsin (PSC). Consultations have been conducted with the Wisconsin Department of Natural Resources (WDNR) and an endangered resource review (ER) has been submitted to the agency. Consultations with other agencies include the Federal Aviation Administration (FAA), Natural Resources Conservation Service (NRCS), U.S. Environmental Protection Agency (USEPA), and informal consultation with the U.S. Fish and Wildlife Service (USFWS). Badger State has consulted property owners, local town and county officials and staff, state elected representatives, Wisconsin Department of Agriculture Trade and Consumer Protection, and engaged the general public.

The USFWS concurred that the proposed project may affect, but is not likely to adversely affect, whooping crane. The USFWS concurred that Project minimization measures during constriction are expected to avoid or minimize disturbance to the whooping cranes and that minor loss of stopover and feeding habitat would not be likely to negatively impact the species. Additionally, the USFWS concurred that the Project is consistent with activities analyzed in the Programmatic Biological Opinion for the northern long-eared bat. Finally, the USFWS provided guidance on National Bald Eagle Management Guidelines and incidental take permits, recommendations for site selection and layout, and recommendations for project construction.

5. Alternatives To Be Considered

Potential locations for development of the solar facility in Wisconsin were evaluated in an initial preliminary site review to identify locations where electric transmission infrastructure would be sufficient to connect a solar project to the power grid. The Site Selection Study consisted of three phases of evaluation which began with 18 potential sites and ended with the identification of the proposed site in Jefferson County as the most feasible for consideration. The potential impacts of the No Action Alternative and the Proposed Action, construction of the Badger State Solar project in Jefferson County, Wisconsin, are analyzed in detail.

6. Overview of the Scoping Process

RUS is using its procedures for public involvement under NEPA to meet its responsibilities to solicit and consider

the views of the public during Section 106 review. Accordingly, comments submitted in response to this Notice will inform RUS decision-making during Section 106 review. As noted in the **Federal Register** notice announcing the intent to prepare an EIS on October 5, 2021, the RUS invited any interested party wishing to participate directly with the agency as a ''consulting party'' in Section 106 review may submit a written request to the RUS contact provided below. Pursuant to 36 CFR 800.3(f)(3), RUS will consider, and provide a timely response to, any and all requests for consulting party status.

The Notice of Intent (NOI) to prepare the Badger State Solar EIS and to hold a virtual public scoping meeting was published in the **Federal Register** on October 5, 2021, initiating the 30-day public scoping period. The NOI also announced a virtual public scoping meeting held on October 26. The NOI is provided in the Scoping Report. In addition to the NOI, a notice was published in the Daily Jefferson County Union and Watertown Daily Times newspapers published on October 6, 7, and 8, 2021.

The NOI and other project information (including the Alternative Evaluation and Site Selection Studies) was available for review on the RUS and Badger State Solar websites (*https://www.rd.usda.gov/resources/environmental-studies/impact-statements, https://badgerstatesolar.consultation.ai,* and *https://www.badgerstatesolar.com*) and also at the following locations (Jefferson Public Library in Jefferson, WI; the Cambridge Community Library in Cambridge, WI and the Lake Mills Library in Lake Mills, WI).

RUS hosted the virtual public scoping meeting on October 26. RUS also hosted an interagency meeting on October 28. In addition to the public involvement process described above, Badger State Solar consulted with the Wisconsin Department of Natural Resources (WDNR) and an endangered resource review has been submitted to the agency. Badger State Solar also consulted with the Federal Aviation Administration (FAA), property owners, local town and county officials and staff, state elected representatives, and Wisconsin Department of Agriculture Trade and Consumer Protection. RUS has initiated consultation with the Wisconsin State Historic Preservation Officer (SHPO), Natural Resources Conservation Service (NRCS), and informal consultation with the U.S. Fish and Wildlife Service (USFWS). RUS initiated informal consultation with the USFWS in a letter dated October 15, 2021. USFWS concurred with the finding that the Proposed Action may affect, but is not likely to adversely affect listed or proposed species or designated critical habitat in an email dated December 21, 2021. A summary of the scoping process and public input is provided in the Draft EIS.

7. Decision Process

The Draft EIS will be available for review and comment for 45 days. Following the 45-day review period, RUS will prepare a Final EIS. All comments received on the Draft EIS will be duly considered in preparing the Final EIS, which is expected to be available by August 2022. The availability of the Final EIS for public review will be announced in the **Federal Register** and the local newspapers used in previous public notices. After publication of the Final EIS a Record of Decision (ROD) will be prepared documenting the Agency's decision regarding Badger State Solar's request for financial assistance. Notices announcing the availability of the ROD will be published in the **Federal Register** and in local newspapers.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant executive orders and federal, state, and local environmental laws and regulations in addition to the completion of the environmental review requirements as prescribed in RUS Environmental Policies and Procedures, 7 CFR part 1970.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service, U.S. Department of Agriculture.

[FR Doc. 2022–04203 Filed 2–28–22; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a meeting on Friday April 8, 2022 at 12:00 p.m. Eastern time. The Committee will continue to discuss civil rights and fair housing in the state.

DATES: The meeting will take place on Friday April 8, 2022 from 12:00 p.m.–1:00 p.m. Eastern time.

Online Regisration (*Audio/Visual*): *https://bit.ly/3HPpBoV.*

Telephone (Audio Only): Dial 800–360–9505 USA Toll Free; Access code: 2761 149 6319.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to these discussions. Committee meetings are available to the public through the above listed online registration link or call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Civil Rights and Fair Housing in Pennsylvania
Future Plans and Actions
Public Comment

Adjournment

Dated: February 23, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–04167 Filed 2–28–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Nevada Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Nevada Advisory Committee (Committee) will hold a meeting via web conference on Thursday, March 10, 2022, from 2:00 p.m. to 3:30 p.m. Pacific Time. The purpose of the meeting is to review and vote on their addendum regarding updates to recommendations noted in their report on remote learning and equity in education.

DATES: Thursday, March 10, 2022, from 2:00 p.m. to 3:30 p.m. Pacific Time.

Webex Information: Register online *https://tinyurl.com/2p8n4xkw.*

Audio: (800) 360–9505, ID: 2762 651 8270.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or by phone at (202) 681–0857.

SUPPLEMENTARY INFORMATION: Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit Office within 30 days following the meeting. Written comments may be mailed to Ana Victoria Fortes at *afortes@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit Office (202) 681–0587.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicvViewCommitteeDetails?id=a10t0000001gzlJAAQ.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Review Addemdum
III. Public Comment
IV. Vote on Addemdum
V. Next Steps
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the immediacy of the subject matter.

Dated: February 23, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–04213 Filed 2–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Ask U.S. Panel

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 7, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Ask U.S. Panel.

OMB Control Number: 0607–XXXX.

Form Number(s): Not yet determined.

Type of Request: Regular submission, New Information Collection Request.

Number of Respondents: 1,700.

Average Hours per Response: Approximately 39.9 minutes per respondent.

Burden Hours: 1,131 hours.

Needs and Uses: The Ask U.S. Panel (''the Panel'') will be a nationally representative survey panel for tracking public opinion on a variety of topics of interest to numerous federal agencies and their partners, and for conducting experimentation on alternative question wording and methodological approaches. The Panel may also be used to collect national-representative rapid-response data, as a complement to that currently collected by the Household Pulse Survey. The Panel will be developed through a multi-year effort. The first two years will focus on developing the overall design and conducting a large-scale field Pilot Test. Nationally representative data collection based on a probability sample of U.S. adults will begin in the third year. The current request is limited to the Pilot Test. A future request will contain details for the full Panel.

A key objective of the Panel will be to produce representative and reliable statistics on a rapid turnaround suitable for use by federal agencies. Ultimately, the Panel seeks to make it possible to release data that meets standards of the Federal Statistical Agencies and the Office of Management and Budget (OMB). At the same time, the Panel will ensure availability of frequent data collection for nationally representative estimates on a variety of topics and a variety of subgroups of the population.

The Panel is an interagency effort, with representatives from Census, the Department of Agriculture's Economic Research Service, the Bureau of Labor Statistics, the National Center for Health Statistics, the National Center for Science and Engineering Statistics, the National Center for Education Statistics, the Department of Defense, Department of Transportation, Department of Labor and the Social Security Administration guiding its design, content and methodological rigor, that will be used to meet data needs across the Federal Statistical System.

Data will be collected in two distinct phases. In Phase 1, a pilot, consisting of approximately ten percent of the final panel (1,700 people) will be recruited and surveyed as a proof-of-concept to refine methods. In Phase 2, the full panel will be recruited and surveyed using methodology refined during Phase 1. This 30-day notice seeks clearance for the Phase 1 Pilot. A future 30-day notice will outline specific plans for Phase 2.

Affected Public: Individuals or households.

Frequency: Twice a year.

Respondent's Obligation: Voluntary.

Legal Authority: The Pilot is being developed under a cooperative agreement awarded by the Census Bureau pursuant to the Consolidated Appropriations Act of 2021, Public Law 116–260, Section 110. Data collection from the Panel for Census Bureau sponsored surveys is authorized by Title 13, Sections, 131, 141, 161, 181, 182, 193, and 301. Data collection from the Panel for surveys sponsored by other agencies is authorized by 13 U.S.C. 8(b), where the Census Bureau is the collection agent, 44 U.S. Code 3509, where OMB can direct data collection, and the various U.S. Code titles that authorize those agencies to collect information, including but not limited to Title 49, Section 329 for Bureau of Transportation Statistics collections, and the Education Sciences Reform Act of 2002 (ESRA 2002, 20 U.S.C. 9543) for National Center for Education Statistics surveys.

The confidentiality of information collected on topical surveys in this panel is assured by CIPSEA, Title 13 United States Code, or other applicable titles which authorize the collection of information.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

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

[FR Doc. 2022–04222 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Survey of Children's Health

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 9, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: National Survey of Children's Health.

OMB Control Number: 0607–0990.

Form Number(s): NSCH–S1 (English Screener), NSCH–T1 (English Topical for 0- to 5-year-old children), NSCH–T2 (English Topical for 6- to 11-year-old children), NSCH–T3 (English Topical for 12- to 17-year-old children), NSCH–S–S1 (Spanish Screener), NSCH–S–T1 (Spanish Topical for 0- to 5-year-old children), NSCH–S–T2 (Spanish Topical for 6- to 11-year-old children), and NSCH–S–T3 (Spanish Topical for 12- to 17-year-old children).

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 71,380 for the screener only and 60,504 for the combined screener and topical, for a total of 131,884 respondents.

Average Hours per Response: 5 minutes per screener response and 35–36 minutes per topical response, which in total is approximately 40–41 minutes for households with eligible children.

Burden Hours: 46,587.

Needs and Uses: The National Survey of Children's Health (NSCH) enables the Maternal and Child Health Bureau (MCHB) of the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) along with supplemental sponsoring agencies, states, and other data users to produce national and state-based estimates on the health and well-being of children, their families, and their communities as well as estimates of the prevalence and impact of children with special health care needs.

Data will be collected using one of two modes. The first mode is a web instrument (Centurion) survey that contains the screener and topical instruments. The web instrument first will take the respondent through the screener questions. If the household screens into the study, the respondent will be taken directly into one of the three age-based topical sets of questions. The second mode is a mailout/mailback of a self-administered paper-and-pencil interviewing (PAPI) screener instrument followed by a separate mailout/mailback of a PAPI age-based topical instrument.

The National Survey of Children's Health (NSCH) is a large-scale (sample size is up to 360,000 addresses) national survey with approximately 200,000 addresses included in the base production survey and approximately 160,000 addresses included as part of eleven separate age-based, state-based, or region-based oversamples. The 2022 NSCH will include a topical incentive test. Prior cycles of the survey have included a $5 unconditional cash incentive with the initial mailing of the paper topical questionnaire. The incentive has proven to be a cost-effective intervention for increasing survey response and reducing nonresponse bias. The 2022 NSCH will continue to test a $10 cash incentive, with a focus on lower responding households.

As in prior cycles of the NSCH, there remain two key, non-experimental design elements. The first additional non-experimental design element is a $5 screener cash incentive mailed to 90% of sampled addresses; the remaining 10% (the control) will receive no incentive to monitor the effectiveness of the cash incentive. This incentive is designed to increase response and reduce nonresponse bias. The incentive amount was chosen based on the results of the 2021 NSCH as well as funding availability. The second additional non-experimental design element is a data collection procedure based on the block group-level paper-only response probability used to identify households (30% of the sample) that would be more likely to respond by paper and send them a paper questionnaire in the initial mailing.

Affected Public: Individuals or households.

Frequency: The 2022 collection is the seventh administration of the NSCH. It is an annual survey, with a new sample drawn for each administration.

Respondent's Obligation: Voluntary.

Legal Authority:

Census Authority: Title 13, United States Code (U.S.C.), Section 8(b) (13 U.S.C. 8(b)).

HRSA MCHB Authority: Section 501(a)(2) of the Social Security Act (42 U.S.C. 701).

United States Department of Agriculture Authority: Agriculture Improvement Act of 2018, Public Law 115–334.

United States Department of Health and Human Services' Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disabilities Authority: Public Health Service Act, Section 301, 42 U.S.C. 241.

United States Department of Health and Human Services' Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion Authority: Sections 301(a), 307, and 399G of the Public Health Service [42 U.S.C. 241(a), 242l, and 280e–11], as amended.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0990.

Sheleen Dumas,

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

[FR Doc. 2022–04224 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–6–2022]

Foreign-Trade Zone (FTZ) 43—Battle Creek, Michigan; Notification of Proposed Production Activity; Pfizer, Inc. (Nirmatrelvir Active Pharmaceutical Ingredient (API) for COVID–19 Treatment); Kalamazoo, Michigan

Pfizer, Inc. (Pfizer) submitted a notification of proposed production activity to the FTZ Board for its facility Kalamazoo, Michigan. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on February 22, 2022.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status materials/components and specific finished product described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished product and materials/components would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished product is Nirmatrelvir API (duty rate, 6.5%).

The proposed foreign-status materials and components include Registered Starter Chemical PF-04349713-01, Registered Starter Chemical PF-07321787, Registered Starter Chemical PF-07328614-01, 2-Hydroxypyridine-N-oxide (HOPO), and Dimethylaminopropylethyl carbodiimide hydrochloride (EDC HCI) (duty rates are 3.7% or 6.5%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 11, 2022.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: February 23, 2022.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2022–04225 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that producers/exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), February 1, 2020, through January 31, 2021. We invite interested parties to comment on these preliminary results of review.

DATES: Applicable March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2201.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, Commerce published in the **Federal Register** an antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea).[1] On February 2, 2021, we published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order.*[2] On April 1, 2021, based on timely requests for an administrative review Commerce initiated the administrative review of four companies.[3]

On October 14, 2021, Commerce extended the time limit for issuing the preliminary results of this review by 117 days, to no later than February 25, 2022.[4] For a complete description of the

[1] *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585 (February 10, 2000) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 86 FR 7855 (February 2, 2021).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 17124 (April 1, 2021) (*Initiation Notice*).

[4] *See* Memorandum, ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Extension of Deadline for

events between the initiation of this review and these preliminary results, *see* the Preliminary Decision Memorandum.[5]

Scope of the Order

The products covered by this *Order* are certain CTL plate from Korea. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[6]

Methodology

Commerce is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is included in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Rates for Respondents Not Selected for Individual Examination

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have preliminarily calculated a weighted-average dumping margin for the mandatory respondent, Hyundai Steel Company (Hyundai Steel) that is not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, Commerce preliminarily has assigned to the companies not individually examined, listed in the chart below, a margin of 6.09 percent based on Hyundai Steel's calculated weighted-average dumping margin.

Preliminary Results of the Administrative Review

We preliminarily determine that the following weighted-average dumping margins exist for the respondents for the period February 1, 2020, through January 31, 2021:

Producer/exporter	Weighted-average dumping margin (percent)
Hyundai Steel Company	6.09

REVIEW-SPECIFIC AVERAGE RATE APPLICABLE TO THE FOLLOWING COMPANIES

Exporter/producer	Weighted-average dumping margin (percent)
BDP International	6.09
Dongkuk Steel Mill Co., Ltd	6.09
Sung Jin Steel Co., Ltd	6.09

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results to the parties within five days after public announcement of the preliminary results.[7] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[8] Commerce modified certain of its requirements for serving documents containing business proprietary information until further notice.[9] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[11]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[12] If a respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we intend to calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[13] If the respondent's

Preliminary Results of the Antidumping Duty Administrative Review; 2020–2021,'' dated October 14, 2021.

[5] *See* Memorandum, ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Preliminary Decision Memorandum at ''Scope of the *Order*.''

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(d).

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.212(b)(1).

[13] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101

Continued

weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of this review, we intend to instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews.*[14] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15]

For entries of subject merchandise during the POR produced by Hyundai Steel for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate these entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[16]

For the companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rates at the rates established after the completion of the final results of review.

We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication in the **Federal Register** of the notice of final results of this review for all shipments of CTL plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for companies subject to this review will be equal to the weighted-average dumping margins established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 0.98 percent,[17] the all-others rate established in the LTFV investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanctions.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: February 22, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Rate for the Respondents not Selected for Individual Examination
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2022–04180 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) and the International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for April 2022

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in April 2022 and will appear in that month's, *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Ferrovanadium from South Korea, A–580–886 (1st Review)	Thomas Martin, (202) 482–3936.
Helical Spring Lock Washers from China, A–570–822 (5th Review)	Mary Kolberg, (202) 482–1785.

(February 14, 2012) (*Final Modification for Reviews*).

[14] *See Final Modification for Reviews,* 77 FR at 8103; *see also* 19 CFR 351.106(c)(2).

[15] *See* section 751(a)(2)(C) of the Act.

[16] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 32629, 32630 (July 13, 2018).

	Department contact
Helical Spring Lock Washers from Taiwan, A–583–820 (5th Review)	Mary Kolberg, (202) 482–1785.
HEDP from China, A–570–045 (1st Review)	Thomas Martin, (202) 482–3936.
Sulfanilic Acid from China, A–570–815 (5th Review)	Mary Kolberg, (202) 482–1785.
Sulfanilic Acid from India, A–533–806 (5th Review)	Mary Kolberg, (202) 482–1785.
Countervailing Duty Proceedings	
HEDP from China, C–570–046 (1st Review)	Thomas Martin, (202) 482–3936.
Sulfanilic Acid from India, C–533–807 (5th Review)	Mary Kolberg, (202) 482–1785.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in April 2022.

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 8, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–04282 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain frozen warmwater shrimp (shrimp) from India is being, or is likely to be, sold in the United States at less than normal value (NV) during the period of review (POR) February 1, 2020, through January 31, 2021.

DATES: Applicable March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Terre Keaton or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–6172, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2021, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the antidumping duty order on shrimp from India.[1] This review covers 163 producers and/or exporters of the subject merchandise. Commerce selected two mandatory respondents for individual examination: LNSK Green House Agro Products LLP (LNSK) and Royal Imports and Exports (Royal). For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[2]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 17124 (April 1, 2021).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.04, 0306.17.00.05, 0306.17.00.06, 0306.17.00.07, 0306.17.00.08, 0306.17.00.09, 0306.17.00.10, 0306.17.00.11, 0306.17.00.12, 0306.17.00.13, 0306.17.00.14, 0306.17.00.15, 0306.17.00.16, 0306.17.00.17, 0306.17.00.18, 0306.17.00.19, 0306.17.00.20, 0306.17.00.21, 0306.17.00.22, 0306.17.00.23, 0306.17.00.24, 0306.17.00.25, 0306.17.00.26, 0306.17.00.27, 0306.17.00.28, 0306.17.00.29, 0306.17.00.40, 0306.17.00.41, 0306.17.00.42, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.[3]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.* A list

[3] For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2020, through January 31, 2021, as follows:

Exporter/producer	Weighted-average dumping margin (percent)
LNSK Green House Agro Products LLP	0.00
Royal Imports and Exports	3.01
Companies Not Selected for Individual Review [4]	3.01

Review-Specific Average Rate for Companies Not Selected for Individual Review

The exporters or producers not selected for individual review are listed in Appendix II.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[5] Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[6] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] Case and rebuttal briefs should be filed using ACCESS.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[10] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.[11]

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[12]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[13]

Pursuant to 19 CFR 351.212(b)(1), because both respondents reported the entered value for all of their U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by LNSK or Royal for which these companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[14]

For the companies which were not selected for individual review, we will assign an assessment rate based on the review-specific average rate, calculated as noted in the ''Preliminary Results of Review'' section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.17 percent, the all-others rate established in the LTFV investigation.[16] These deposit requirements, when imposed,

[4] Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding any margins that are zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' Because the margin calculated for LNSK in these preliminary results is zero, we have preliminarily assigned a dumping margin to these companies based on the rate calculated for Royal.

[5] *See* 19 CFR 351.224(b).

[6] *See* 19 CFR 351.309(c).

[7] *See* 19 CFR 351.309(d).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *See* 19 CFR 351.303.

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See* section 751(a)(3)(A) of the Act.

[13] *See* 19 CFR 351.212(b)(1).

[14] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See* section 751(a)(2)(C) of the Act.

[16] *See Notice of Amended Final Determination of Sale at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147 (February 1, 2005).

shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 22, 2022.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

Appendix II

Review-Specific Average Rate Applicable to Companies Not Selected for Individual Review

1. Abad Fisheries
2. Accelerated Freeze Drying Co.
3. ADF Foods Ltd.
4. Albys Agro Private Limited
5. Al-Hassan Overseas Private Limited
6. Allana Frozen Foods Pvt. Ltd.
7. Allanasons Ltd.
8. Alps Ice & Cold Storage Private Limited
9. Amarsagar Seafoods Private Limited
10. Amulya Seafoods
11. Anantha Seafoods Private Limited
12. Anjaneya Seafoods
13. Asvini Agro Exports
14. Ayshwarya Seafood Private Limited
15. B R Traders
16. Baby Marine Eastern Exports
17. Baby Marine Exports
18. Baby Marine International
19. Baby Marine Sarass
20. Baby Marine Ventures
21. Balasore Marine Exports Private Limited
22. BB Estates & Exports Private Limited
23. Bell Exim Private Limited
24. Bhatsons Aquatic Products
25. Bhavani Seafoods
26. Bijaya Marine Products
27. Blue Fin Frozen Foods Pvt. Ltd.
28. Blue Water Foods & Exports P. Ltd.
29. Bluepark Seafoods Pvt. Ltd.
30. Britto Seafood Exports Pvt Ltd.
31. Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co.
32. Canaan Marine Products
33. Capithan Exporting Co.
34. Cargomar Private Limited
35. Chakri Fisheries Private Limited
36. Chemmeens (Regd)
37. Cherukattu Industries (Marine Div)
38. Cochin Frozen Food Exports Pvt. Ltd.
39. Continental Fisheries India Private Limited
40. Coreline Exports
41. Corlim Marine Exports Pvt. Ltd.
42. CPF (India) Private Limited
43. Crystal Sea Foods Private Limited
44. Danica Aqua Exports Private Limited
45. Datla Sea Foods
46. Delsea Exports Pvt. Ltd.
47. Devi Sea Foods Limited [17]
48. Empire Industries Limited
49. Entel Food Products Private Limited
50. Esmario Export Enterprises
51. Everblue Sea Foods Private Limited
52. Febin Marine Foods Private Limited
53. Fedora Sea Foods Private Limited
54. Food Products Pvt., Ltd./Parayil Food Products Private Limited
55. Fouress Food Products Private Limited
56. Frontline Exports Pvt. Ltd.
57. G A Randerian Ltd.
58. Gadre Marine Exports (AKA Gadre Marine Exports Pvt. Ltd.)
59. Galaxy Maritech Exports P. Ltd.
60. Geo Aquatic Products (P) Ltd.
61. Godavari Mega Aqua Food Park Private Limited
62. Grandtrust Overseas (P) Ltd.
63. GVR Exports Pvt. Ltd.
64. Hari Marine Private Limited
65. Haripriya Marine Export Pvt. Ltd.
66. HIC ABF Special Foods Pvt. Ltd.
67. Hiravati Exports Pvt. Ltd.
68. Hiravati International Pvt. Ltd.
69. Hiravati Marine Products Private Limited
70. HMG Industries Limited
71. HN Indigos Private Limited
72. Hyson Exports Private Limited
73. Indian Aquatic Products
74. Indo Aquatics
75. Indo Fisheries
76. Indo French Shellfish Company Private Limited
77. International Freezefish Exports
78. Jinny Marine Traders
79. K.V. Marine Exports
80. Karunya Marine Exports Private Limited
81. Kaushalya Aqua Marine Product Exports Pvt. Ltd.
82. Kay Exports
83. Kings Marine Products
84. Koluthara Exports Ltd.
85. Libran Foods
86. Mangala Sea Products
87. Marine Harvest India
88. Megaa Moda Pvt. Ltd.
89. Milsha Agro Exports Private Limited
90. Milsha Sea Product
91. Minaxi Fisheries Private Limited
92. Mindhola Foods LLP
93. MMC Exports Limited
94. MTR Foods
95. Naik Frozen Foods Private Limited
96. Naik Oceanic Exports Pvt. Ltd./Rafiq Naik Exports Pvt. Ltd.
97. Naik Seafoods Limited
98. NAS Fisheries Pvt. Ltd.
99. Nine Up Frozen Foods
100. NK Marine Exports LLP
101. Nutrient Marine Foods Limited
102. Oceanic Edibles International Limited
103. Paragon Sea Foods Pvt. Ltd.
104. Paramount Seafoods
105. Pesca Marine Products Pvt., Ltd.
106. Pijikay International Exports P Ltd.
107. Pravesh Seafood Private Limited
108. Premier Exports International
109. Premier Marine Foods
110. Premier Seafoods Exim (P) Ltd.
111. Raju Exports
112. Raunaq Ice & Cold Storage
113. RDR Exports
114. RF Exports Private Limited
115. Riyarchita Agro Farming Private Limited
116. Rupsha Fish Private Limited
117. R V R Marine Products Private Limited
118. S Chanchala Combines Private Limited
119. Sagar Samrat Seafoods
120. Sahada Exports
121. Samaki Exports Private Limited
122. Sasoondock Matsyodyog Sahakari Society Ltd.
123. Sea Doris Marine Exports
124. Seagold Overseas Pvt. Ltd.
125. Shimpo Exports Private Limited
126. Shimpo Seafoods Private Limited
127. Shiva Frozen Food Exp. Pvt. Ltd.
128. Shroff Processed Food & Cold Storage P Ltd.
129. Silver Seafood
130. Sita Marine Exports
131. Sonia Fisheries
132. Sri Sakkthi Cold Storage
133. Srikanth International
134. SSF Ltd.
135. Star Agro Marine Exports Private Limited
136. Star Organic Foods Private Limited
137. Stellar Marine Foods Private Limited
138. Sterling Foods
139. Summit Marine Exports Private Limited
140. Sun Agro Exim
141. Supran Exim Private Limited
142. Suvarna Rekha Exports Private Limited
143. Suvarna Rekha Marines P Ltd.
144. TBR Exports Pvt. Ltd.
145. Teekay Marine P Ltd.
146. The Waterbase Limited
147. Torry Harris Seafoods Ltd.
148. Triveni Fisheries P Ltd.
149. U & Company Marine Exports
150. Ulka Sea Foods Private Limited
151. Uniroyal Marine Exports Ltd.
152. Unitriveni Overseas Private Limited
153. Vaisakhi Bio-Marine Pvt. Ltd.
154. Vasai Frozen Food Co.
155. Veronica Marine Exports Private Limited
156. Victoria Marine & Agro Exports Ltd.
157. Vinner Marine
158. Vitality Aquaculture Pvt. Ltd.
159. VKM Foods Private Limited
160. VRC Marine Foods LLP

[17] Shrimp produced and exported by Devi Sea Foods Limited (Devi) was excluded from the order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp from India: Final Results of the Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we initiated this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

161. Zeal Aqua Limited

[FR Doc. 2022–04182 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

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

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The International Trade Commission (the ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC case No.	ITC case No.	Country	Product	Commerce contact
A–570–967	731–TA–1177	China	Aluminum Extrusions (2nd Review)	Jacky Arrowsmith, (202) 482–5255.
A–570–832	731–TA–696	China	Pure Magnesium (5th Review)	Mary Kolberg, (202) 482–1785.
A–570–044	731–TA–1313	China	R–134 (1st Review)	Mary Kolberg, (202) 482–1785.
A–570–042	731–TA–1312	China	Stainless Sheet and Strip (1st Review)	Jacky Arrowsmith, (202) 482–5255.
A–580–085	731–TA–1314	South Korea	Phosphorous Copper (1st Review)	Mary Kolberg, (202) 482–1785.
C–570–968	701–TA–475	China	Aluminum Extrusions (2nd Review)	Jacky Arrowsmith, (202) 482–5255.
C–570–043	701–TA–557	China	Stainless Sheet and Strip (1st Review)	Jacky Arrowsmith, (202) 482–5255.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[2]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to* COVID–19, 85 FR 41363 (July 10, 2020).

[2] *See* 19 CFR 351.218(d)(1)(iii).

responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: February 8, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–04283 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB851]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Tilefish Monitoring Committee will hold a public webinar meeting. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Thursday, March 17, 2022, from 1:30 p.m. until 4:30 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the Tilefish Monitoring Committee to review and if necessary, revise the 2023 recommended annual catch limits, trip limits, discards and other management measures for the blueline and golden tilefish fisheries.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: February 24, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–04284 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of National Estuarine Research Reserve; Public Meeting; Request for Comments

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments on the performance evaluation of the South Slough National Estuarine Research Reserve.

DATES: NOAA will consider all written comments received by Friday, April 22, 2022. A virtual public meeting will be held on Tuesday April 12, 2022 at 1 p.m. PT.

ADDRESSES: Comments may be submitted by one of the following methods:

- *Email:* Becky Allee, Evaluator, NOAA Office for Coastal Management at *Becky.Allee@noaa.gov.*
- *Public Meeting:* Provide oral comments during the virtual public meeting on April 12, 2022 by registering as a speaker at *https://forms.gle/dWnJGc6TfeaMDNGg6.* Please register by Monday, April 11, 5 p.m. PT. Upon registration, a confirmation email will be sent. The line-up of speakers will be based on the date and time of registration. One hour prior to the start of the meeting on April 12, 2022, an emailed will be sent out with a link to the public meeting and information about participating.
- Comments received are considered part of the public record and may be publicly accessible. Any personal information (*e.g.,* name, address) submitted voluntarily by the sender may also be publicly accessible. NOAA will accept anonymous comments.
- Public comments may be provided during the virtual public meeting. To participate in the virtual public meeting, registration is required by Monday, April 11, 2022, at 5 p.m. PT.

FOR FURTHER INFORMATION CONTACT: Becky Allee, Evaluator, NOAA Office for Coastal Management at *Becky.Allee@noaa.gov* or phone at 601–564–8891. Copies of the previous evaluation findings, reserve management plan, and reserve site profile may be viewed and downloaded at *http://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting Becky Allee.

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved national estuarine research reserves. The process includes one or more public meetings, consideration of written public comments, and consultations with interested Federal, State, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state of Oregon has met the national objectives, adhered to the reserve's management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–04209 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Draft Revised Management Plan for the Chesapeake Bay Virginia National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. 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 Chesapeake Bay Virginia National Estuarine Research Reserve (NERR 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 draft revised plan is intended to replace the plan approved in 2008.

DATES: Comments are due by March 31, 2022.

ADDRESSES: The draft revised management plan can be accessed at: *https://www.vims.edu/cbnerr/resources/resources_annual_reports.php.* The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

• *Electronic Submission:* Submit all electronic public comments by email to *tricia.hooper@noaa.gov.* Include ''Comments on draft Chesapeake Bay Virginia Reserve Management Plan'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Tricia Hooper of NOAA's Office for Coastal Management, by email at *tricia.hooper@noaa.gov* or phone at 617–921–1998.

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 Chesapeake Bay Virginia NERR's draft revised plan would replace the plan previously approved in 2008.

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 particular, this draft revised management plan focuses efforts and investments in three functional areas:

• Enhance and inspire stewardship, protection, and management of estuaries, their watersheds, and cultural connections through place-based approaches.

• Generate, apply, and transfer scientific knowledge of estuarine and coastal watershed resources to increase understanding, appreciation, and betterment of coastal communities.

• Advance environmental literacy and appreciation, allowing for better resource stewardship and science-based decisions that positively affect estuaries, their watersheds, and communities.

Since 2008, the reserve has made notable investments in programs and infrastructure, which include launching the new Margaret A. Davidson Fellowship, reinvigorating the York River and Small Coastal Basin Roundtable, and establishing the Environmental Data Center and the Virginia Scientists and Educators Alliance with partners at the Virginia Institute of Marine Science. The reserve installed a floating dock at Taskinas Creek and Catlett Islands components, and maintained extensive Sentinel Site infrastructure, including boardways, sediment elevation tables, tide gauges, and survey benchmarks. The reserve also navigated changes in ownership and management at the Catlett Islands and Sweet Hall Marsh components, conducted an internal reorganization, and developed a comprehensive communications plan. The draft revised management plan, once approved, would serve as the guiding document for the 3,072-acre research reserve for the next five years.

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. 2022–04206 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB852]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils (Councils) will hold a public meeting of their joint Northeast Trawl Advisory Panel (NTAP). See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Thursday, March 17, 2022, from 9 a.m. until 12:30 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Councils' Northeast Trawl Advisory Panel (NTAP) will review recent developments related to relevant fishery surveys and develop future priorities.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: February 24, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–04280 Filed 2–28–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0127]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Third Party Authorization Form.

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 31, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–570–8414.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Third Party Authorization Form.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 25,000.

Total Estimated Number of Annual Burden Hours: 100,000.

Abstract: This is a request for a new information collection for a third-party authorization form to be used by federal student loan borrowers to designate or revoke a designation of an individual or organization to represent the borrower in matters related to their federally held student loans. The Department has revised the initially proposed form. This revised form will continue to standardize the way that borrowers provide privacy act releases and authorization for a third party to take action on borrowers' federal student loan accounts held by various servicers. This will standardize processes and help borrowers and their third-party representatives when loans transfer between servicers. This information collection stems from the Privacy Act of 1974 and the common law legal principles of agency, which is not reflected in the Department's statute or regulations, but with which the Department must comply or which the Department supports.

Dated: February 24, 2022.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–04226 Filed 2–28–22; 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: PR22–25–000.

Applicants: Louisville Gas and Electric Company.

Description: Submits tariff filing per 284.123(b),(e)/: Revised Statement of Operating Conditions Rate Change to be effective 2/1/2022.

Filed Date: 2/22/2022.

Accession Number: 20220222–5197.

Comment/Protest Due: 5 pm ET 3/15/22.

Docket Numbers: RP22–575–000.

Applicants: Golden Pass Pipeline LLC.

Description: Compliance filing: Golden Pass Pipeline LLC Annual Retainage Report 2022 to be effective 4/1/2022.

Filed Date: 2/22/22.

Accession Number: 20220222–5143.

Comment Date: 5 pm ET 3/7/22.

Docket Numbers: RP22–576–000.

Applicants: Six One Commodities LLC.

Description: Petition for Temporary Waiver of Capacity Release Regulations, et al. of Six One Commodities LLC.

Filed Date: 2/22/22.

Accession Number: 20220222–5264.

Comment Date: 5 pm ET 3/7/22.

Docket Numbers: RP22–577–000.

Applicants: Dauphin Island Gathering Partners.

Description: § 4(d) Rate Filing: Negotiated Rate Filing 2–22–2022 to be effective 2/22/2022.

Filed Date: 2/22/22.

Accession Number: 20220222–5275.

Comment Date: 5 pm ET 3/7/22.

Docket Numbers: RP22–578–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: § 4(d) Rate Filing: Amendment No 1 Contracts 122314 and 122315 to be effective 9/1/2021.

Filed Date: 2/22/22.

Accession Number: 20220222–5280.

Comment Date: 5 pm ET 3/7/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP19–1426–008.

Applicants: National Fuel Gas Supply Corporation.

Description: Compliance filing: Period 2 Settlement Rates (RP19–1426) to be effective 4/1/2022.

Filed Date: 2/22/22.
Accession Number: 20220222–5271.
Comment Date: 5 pm ET 3/7/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04248 Filed 2–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–42–000.
Applicants: Sempra Energy, Energia Sierra Juarez U.S., LLC, Energia Sierra Juarez U.S. Transmission, LLC, Termoelectrica U.S., LLC, Sempra Gas & Power Marketing, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Sempra Energy, et al.
Filed Date: 2/22/22.
Accession Number: 20220222–5408.
Comment Date: 5 p.m. ET 3/15/22.

Docket Numbers: EC22–43–000.
Applicants: EAM Nelson Holding, LLC, Entergy Nuclear Palisades, LLC, Entergy Nuclear Power Marketing, LLC, Entergy Power, LLC, EWO Marketing, LLC, RS Cogen, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of EAM Nelson Holding, LLC, et al.
Filed Date: 2/22/22.
Accession Number: 20220222–5416.
Comment Date: 5 p.m. ET 3/15/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: R12–1933–014; ER10–1882–006; ER12–1934–012.
Applicants: Wisconsin Power and Light Company, Wisconsin River Power Company, Interstate Power and Light Company.
Description: Notice of Non-Material Change in Status of Interstate Power & Light Company, et. al.
Filed Date: 2/22/22.
Accession Number: 20220222–5407.
Comment Date: 5 p.m. ET 3/15/22.

Docket Numbers: ER18–1960–005.
Applicants: Tenaska Pennsylvania Partners, LLC.
Description: Notice of Change in Status of Tenaska Pennsylvania Partners, LLC.
Filed Date: 2/23/22.
Accession Number: 20220223–5052.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER21–1154–002.
Applicants: ISO New England Inc., Fitchburg Gas and Electric Light Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: FG&E; ER21–1154–001—Amended Supplemental Order 864 Comp. Filing to be effective 1/27/2020.
Filed Date: 2/23/22.
Accession Number: 20220223–5025.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER21–1293–002.
Applicants: ISO New England Inc., NSTAR Electric Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: NSTAR Electric Company; Docket No. ER21–1293 to be effective 1/27/2020.
Filed Date: 2/23/22.
Accession Number: 20220223–5012.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER21–1295–002.
Applicants: ISO New England Inc., Eversource Energy Service Company (as agent).
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: Eversource Energy Service Company; Docket No. ER21–195 to be effective 1/27/2020.
Filed Date: 2/23/22.
Accession Number: 20220223–5015.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–787–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2022–02–23_SA 3408 Ameren IL-Glacier Sands Wind Sub 2nd Rev GIA (J1055 J1454) to be effective 12/21/2021.
Filed Date: 2/23/22.
Accession Number: 20220223–5089.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1096–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–02–23_SA 3789 ATXI-Double Black Diamond Solar E&P (J1464) to be effective 2/2/2022.
Filed Date: 2/23/22.
Accession Number: 20220223–5027.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1097–000.
Applicants: Midcontinent Independent System Operator, Inc., Big Rivers Electric Corporation.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–02–23_BREC Attachment O ROE and Attachment GG (Option 1B) Filing to be effective 6/1/2022.
Filed Date: 2/23/22.
Accession Number: 20220223–5033.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1098–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: OATT Modifications—Administrative Filing to be effective 4/25/2022.
Filed Date: 2/23/22.
Accession Number: 20220223–5055.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1099–000.
Applicants: Kentucky Power Company.
Description: § 205(d) Rate Filing: KPCo Post-Closing Reactive Tariff (RS 304) to be effective 12/31/9998.
Filed Date: 2/23/22.
Accession Number: 20220223–5056.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1100–000.
Applicants: Appalachian Power Company.
Description: § 205(d) Rate Filing: Reactive Supply and Voltage Control Amendment to be effective 12/31/9998.
Filed Date: 2/23/22.
Accession Number: 20220223–5069.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1101–000.
Applicants: Cascade Energy Storage, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authority and Requests for Waivers to be effective 2/24/2022.
Filed Date: 2/23/22.
Accession Number: 20220223–5093.
Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1102–000.
Applicants: Sierra Energy Storage, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate

Authority and Requests for Waivers to be effective 2/24/2022.

Filed Date: 2/23/22.

Accession Number: 20220223–5100.

Comment Date: 5 p.m. ET 3/16/22.

Docket Numbers: ER22–1103–000.

Applicants: BRP Capital & Trade LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority and Requests for to be effective 4/25/2022.

Filed Date: 2/23/22.

Accession Number: 20220223–5103.

Comment Date: 5 p.m. ET 3/16/22.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM22–8–000.

Applicants: DTE Electric Company.

Description: Application of DTE Electric Company to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 2/23/22.

Accession Number: 20220223–5119.

Comment Date: 5 p.m. ET 3/23/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04249 Filed 2–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1095–000]

KCE NY 6, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of KCE NY 6, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04251 Filed 2–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971–134]

Idaho Power Company; Notice of Intent To Prepare an Environmental Assessment

On October 8, 2021, Idaho Power Company filed an application to amend the license for the Hells Canyon Hydroelectric Project No. 1971 (FERC No. 1971). The Hells Canyon Project is located on the Snake River in Adams and Washington counties, Idaho and in Wallowa, Malheur, and Baker counties, Oregon. The project occupies federal lands administered by the U.S. Forest Service and the Bureau of Land Management (Payette and Wallowa Whitman National Forests and Hells Canyon National Recreational Area).

In accordance with the Commission's regulations, on November 4, 2021, Commission staff issued a notice that the application was accepted for filing and soliticed comments, motions to intervene and protests. Based on the information in the record, including comments filed on the notice, staff does not anticipate that amending the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to amend the Hells Canyon Project.

The EA will be issued and circulated for review by all interested parties.

Any questions regarding this notice may be directed to Jennifer Polardino at (202) 502–6437 or *jennifer.polardino@ferc.gov.*

Dated: February 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04250 Filed 2–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–101–000]

Pleinmont Solar 2, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 17, 2021, the Commission issued an order in Docket No. EL21–101–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether certain provisions of Pleinmont Solar 2, LLC's proposed rate schedule are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Pleinmont Solar 2, LLC,* 176 FERC ¶ 61,167 (2021).

The refund effective date in Docket No. EL21–101–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL21–101–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2020), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: February 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04247 Filed 2–28–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0110; FRL–9586–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks (EPA ICR Number 1995.08, OMB Control Number 2060–0521), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. Public comments were previously requested, via the **Federal Register**, on April 13, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

DATES: Additional comments may be submitted on or before March 31, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2021–0110, online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coke Oven Pushing, Quenching, and Battery Stacks (40 CFR part 63, subpart CCCCC) were proposed on July 3, 2001 (66 FR 35325); promulgated on April 14, 2003 (68 FR 18007); and most-recently amended on August 2, 2005 (70 FR 44285). These regulations apply to pushing, soaking, quenching, and battery stacks on both existing and new coke oven batteries (coke plants) that are major sources of hazardous air pollutant (HAP) emissions. New facilities include those that commenced either construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart CCCCC.

Form Numbers: None.

Respondents/affected entities: Coke manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart CCCCC).

Estimated number of respondents: 14 (total).

Frequency of response: Quarterly and semiannually.

Total estimated burden: 23,900 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,950,000 (per year), which includes $125,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the most-recently approved ICR is due to a decrease in the number of sources. There is an adjustment decrease in labor hours from the most-recently approved ICR. This decrease reflects revisions to the number of existing respondents that are anticipated to reconstruct or close batteries subject to this standard. This decrease is not due to any program changes. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup and/or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–04193 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–SFUND–2022–0229; FRL–9559–01–R8]

CERCLA Administrative Settlement Agreement for Removal Action and Payment of Response Costs by Bona Fide Prospective Purchaser, Vasquez Boulevard & Interstate I–70 Superfund Site, Denver, Colorado

AGENCY: Environmental Protection Agency (EPA).

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

SUMMARY: Notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 8, of a proposed bona fide prospective purchaser settlement agreement embodied in an Order on Consent, with Vita Fox North L.P. This agreement provides for the performance of a removal action by Purchaser and the payment of certain response costs incurred by the United States at or in connection with the property located at 4400 North Fox Street, 4300 North Fox Street and 700 West 4th Avenue in Denver, Colorado, which is part of the Vasquez Boulevard & Interstate 70 Superfund Site. The project will enhance the protectiveness of the remedy during development and future use of the property.

DATES: Comments must be submitted on or before March 31, 2022.

ADDRESSES: The proposed agreement and additional background information relating to the agreement will be available upon request. To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Comments and requests for a copy of the proposed agreement should be addressed to Julie Nicholson, Enforcement Specialist, Superfund and Emergency Management Division, Environmental Protection Agency-Region 8, Mail Code 8SEM–PAC, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6343, *nicholson.julie@epa.gov* and should reference the Vasquez Boulevard & Interstate I–70 Superfund Site.

You may also send comments, identified by Docket ID No. EPA–R08–SFUND–2022–0229 to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mark Chalfant, Senior Assistant Regional Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 8, Mail Code 8ORC–LEC, 1595 Wynkoop, Denver, Colorado 80202, telephone number: (303) 312–6177, email address: *chalfant.mark@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERLCA'') notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 8, of a proposed bona fide prospective purchaser Administrative Settlement Agreement, embodied in an Administrative Settlement Agreement for Removal Action and Payment of Response Costs (''Settlement Agreement'') with the prospective purchaser, Vita Fox North L.P. (''Purchaser''). This proposed Settlement Agreement provides for the performance of a removal action by Purchaser and the payment of certain response costs incurred by the United States at or in connection with the property located at 4400 North Fox Street, 4300 North Fox Street and 700 West 4th Avenue in Denver, Colorado (the ''Property''), which is part of the Vasquez Boulevard & Interstate 70 Superfund Site (''Site''). The proposed Settlement Agreement also provides a covenant not to sue or to take administrative action from the United States to Purchaser pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), for Existing Contamination, the Work, and the payment of response costs.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

Betsy Smidinger,

Division Director, Superfund and Emergency Management Division, Region 8.

[FR Doc. 2022–04223 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0631; FRL–9256–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Residential Lead-Based Paint Hazards Disclosure Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled: ''Residential Lead-Based Paint Hazards Disclosure Requirements'' EPA ICR No. 1710.09 and OMB Control No. 2070–0151, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2022. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the proposed information collection summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 2, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0631, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the

online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) is open to visitors by appointment only. For the latest status information on EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman (7101M), Office of Program Support, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 420–0580; email address: *sleasman.katherine@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A), 44 U.S.C. 3506(c)(2)(A), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Residential Lead-Based Paint Hazards Disclosure Requirements.

ICR numbers: EPA ICR No. 1710.09; OMB Control No. 2070–0151.

ICR status: The existing ICR is currently scheduled to expire on November 30, 2022. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the information collection activities associated with the reporting and recordkeeping requirements for sellers, lessors, and their agents' disclosure activities in target housing including the allowance of up to ten days for an optional risk assessment or inspection before being obligated under a purchase or lease contract.

The ICR supporting statement, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized in this document.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.12 hours per response.

Respondents/Affected Entities: Persons engaged in selling or leasing certain residential dwellings built before 1978. The North American Industrial Classification System (NAICS) codes associated with industries most likely affected by the paperwork requirements are provided in the ICR.

Respondent's obligation to respond: Mandatory (40 CFR part 745).

Estimated total number of potential respondents: 16,793,558.

Frequency of response: On occasion.

Estimated total annual burden hours: 5,481,069 hours.

Estimated total annual costs: $133,320,708, which includes an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is a decrease of 471,275 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. As explained in more detail in the ICR, this decrease reflects revisions to the estimated number of respondents based on updates to data sources, revisions to time burden estimates due to technological change (*e.g.,* widespread use of electronic real estate transacting and documentation), and revisions based on market factors (*e.g.,* declines in the numbers of rentals and declines in the amount of owner-occupied target housing in the market). EPA is also revising the seller's and lessor's disclosure of information sample forms to provide greater clarity on how to fill out the forms under 40 CFR part 745, subpart F and 24 CFR part 35, subpart A. EPA appreciates comments regarding these clarifying revisions to the sample forms.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and that is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not expect this change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 23, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–04233 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0073; FRL9343–01–OLEM]

Proposed Information Collection Request; Comment Request: Distribution of Offsite Consequence Analysis Information Under the Clean Air Act (CAA), as Amended, EPA ICR 1981.08, OMB Control Number 2050–0172

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), Distribution of Offsite Consequence Analysis Information under section 112(r)(7)(H) of the Clean Air Act (CAA), as amended (EPA No. 1981.08, OMB Control Number 2050–0172), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed extension of the ICR, which is currently approved through November 30, 2022. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 2, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2006–0073, to: EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Wendy Hoffman, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–8794; email address: *hoffman.wendy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *http://www.regulations.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room is 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. For further information about the EPA's public docket, Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR is the renewal of the ICR developed for the final rule, *Accidental Release Prevention Requirements; Risk Management Programs Under the Clean Air Act Section 112(r)(7); Distribution of Off-Site Consequence Analysis Information.* CAA section 112(r)(7) required EPA to promulgate reasonable regulations and appropriate guidance to provide for the prevention and detection of accidental releases and for responses to such releases. The regulations include requirements for submittal of a risk management plan (RMP) to EPA. The RMP includes information on offsite consequence analyses (OCA) as well as other elements of the risk management program.

On August 5, 1999, the President signed the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act (CSISSFRRA). The Act required the President to promulgate regulations on the distribution of OCA information (CAA section 112(r)(7)(H)(ii)). The President delegated to EPA and the Department of Justice (DOJ) the responsibility to promulgate regulations to govern the dissemination of OCA information to the public. The final rule was published on August 4, 2000 (65 FR 48108). The regulations imposed minimal information and recordkeeping requirements.

In accordance with the final rule, the Federal Government established 55 reading rooms at Federal facilities geographically distributed across the United States and its territories. At these reading rooms, members of the public are able to read, but not mechanically copy or remove, paper copies of OCA information for up to 10 stationary sources per calendar month. At these reading rooms, the members of the public may also have access to OCA information that the Local Emergency Planning Committee (LEPC) in whose jurisdiction the person lives or works is authorized to provide.

The final rule also authorizes and encourages state and local government officials to have access to OCA information for their official use, and to provide members of the public with read-only access to OCA sections of RMPs for sources located within the jurisdiction of the LEPC where the person lives or works and for any other stationary sources with vulnerability zones extending into the LEPC's jurisdiction.

EPA also established a Vulnerable Zone Indicator System (VZIS) that informs any person located in any state whether an address specified by that person might be within the vulnerable zone of one or more stationary sources, according to the data reported in RMPs. The VZIS is available on the internet. Members of the public who do not have access to the internet are able to obtain the same information by regular mail request to the EPA.

The burden estimates, numbers and types of respondents, wage rates and unit and total costs for this ICR renewal will be revised and updated, if needed, during the 60-day comment period while the ICR Supporting Statement is undergoing review at OMB.

Form Numbers: None.

Respondents/affected entities: State and local agencies and the public.

Respondent's obligation to respond: Required to obtain or retain a benefit (40 CFR 1400).

Estimated number of respondents: 315 (total).

Frequency of response: As necessary.

Total estimated burden: 367 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $16,252 (per year), includes $23 annualized capital or operation & maintenance costs.

Changes in the Estimates: Any change in burden or cost resulting from the 60-day OMB review period will be described and explained in this section when the updated ICR Supporting Statement is completed.

Donna Salyer,

Director, Office of Emergency Management.

[FR Doc. 2022–04210 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2014–0838; FRL–9117–01–OCSPP]

Agency Information Collection Activities; Proposed Reinstatement of an Existing Collection and Request for Comment; Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) entitled: ''Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement'' and identified by EPA ICR No. 2516.04 and OMB Control No. 2070–0199. This is a request to reinstate a previously approved ICR as revised in order to allow the information collection to implement the Framework for the Assessment of Environmental Performance Standards and Ecolabels for Federal Purchasing (Framework). Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments on the proposed ICR must be received on or before May 2, 2022.

ADDRESSES: Submit your comments on the proposed ICR identified by docket identification (ID) number EPA–HQ–OPPT–2014–0838, though the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is opened to visitors by appointment only. For the latest status information on EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Katherine Sleasman, Regulatory Support Branch (7101M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1204; email address: *sleasman.katherine@epa.gov.*

For technical information contact: Alison Kinn Bennett, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8859; *kinn.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses/organizations (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses/organizations affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement.

ICR numbers: EPA ICR No. 2516.04; OMB Control No. 2070–0199.

ICR status: This ICR is a reinstatement. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the information that will be requested to be submitted to the Agency to evaluate private sector standards and ecolabels under the updated Framework for the Assessment of Environmental Performance Standards and Ecolabels for Federal Purchasing. EPA's goal in developing this Framework is to create a transparent, fair, and consistent approach to evaluate product environmental performance standards and ecolabels for inclusion in EPA's Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing (''Recommendations''). The Recommendations help federal purchasers identify and procure environmentally preferable products and services which in turn, help to meet their sustainability goals and requirements.

EPA is engaging in this collection pursuant to the authority in the Pollution Prevention Act (42 U.S.C.A. section 13103(b)(11) which requires EPA to ''Identify opportunities to use Federal procurement to encourage source reduction'' and section 12(d) of

the ''National Technology Transfer and Advancement Act of 1995'' (15 U.S.C. 3701), which requires Federal agencies to ''use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities.'' In addition, OMB Circular A–119 (titled ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'') reaffirms Federal agency use of private sector standards in procurement and the Federal Acquisition Regulation (FAR) Part 23.703(b)(1) directs Federal agencies to ''Maximize the utilization of environmentally preferable products and services (based on EPA-issued guidance)''. On December 8, 2021, Executive Order 14057, titled ''Catalyzing Clean Energy Industries and Jobs through Federal Sustainability'' was issued (86 FR 70935, December 8, 2021). Pursuant to section 510(a) of the Executive Order, a memorandum was issued by the Director of the OMB, in coordination with the Chair of the Council on Environmental Quality (CEQ) and the National Climate Advisor that provides direction on immediate actions and further requirements to meet the policies and goals of the Executive Order available here at: *https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-06.pdf.* The memorandum establishes EPA Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing as a program that identifies sustainable products and services for purposes of meeting the Executive Order goals and requirements available here at: *https://www.epa.gov/greener products/recommendations-specifications-standards-and-ecolabels-federal-purchasing.*

The fundamental aim of this Framework is to establish a cross-sector approach to be used in recognizing private sector environmental standards (and consequently, environmentally preferable products and services meeting these standards) for use in federal purchasing. The Framework includes scoping questions and four sections:

- Criteria for the Process for Developing Standards refers to the procedures used to develop, maintain, and update an environmental performance standard.
- Criteria for the Environmental Effectiveness of the Standards refers to the criteria in the environmental performance standard or ecolabel that support the claim of environmental preferability.
- Criteria for Conformity Assessment refers to the procedures and practices by which products are assessed for conformity to the requirements specified by standards and ecolabeling programs.
- Criteria for Management of Ecolabeling Programs refers to the organizational and management practices of an ecolabeling program.

In 2016, EPA conducted a pilot to test the original set of criteria within the Framework against standards and ecolabels in the flooring, furniture, and paints/coatings categories. EPA has made several edits to the Framework based on lessons learned from the pilot and the desire to address a broader range of sectors with a more streamlined set of criteria. In this next phase of work, EPA intends to expand its recommendations by assessing standards and ecolabels in purchase categories that support Executive Order 14057 and Executive Order 14008, entitled: ''Tackling the Climate Crisis at Home and Abroad'' (86 FR 7619, February 1, 2021).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 8.5 hours per response on average. Burden is defined in 5 CFR 1320.3(b).

Respondents/Affected Entities: You may be potentially affected by this action if you develop, manage, or certify products/services to environmental performance standards and ecolabels.

Respondent's obligation to respond: Voluntary. See 15 U.S.C. 3701 and 42 U.S.C. 13103(b)(11).

Estimated total number of potential respondents: 100.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 2.

Estimated total annual burden hours: 707 hours.

Estimated total annual costs: $45,322, which includes an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

This is a request to reinstate an ICR approval that is currently not active. That means that there is currently no approved burden hours or costs, and this ICR will therefore be treated as resulting in increased burden of 707 hours.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

(*Authority:* 44 U.S.C. 3501 *et seq.)*

Dated: February 23, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–04237 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0749; FRL–9181–01–OCSP]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Foreign Purchaser Acknowledgement Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled: ''Foreign Purchaser Acknowledgement Statement'' and identified by EPA ICR No. 0161.16 and OMB Control No. 2070–0027, represents the renewal of an existing ICR that is scheduled to expire on December 31, 2022. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 2, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number EPA–HQ–OPP–2021–0749, though the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is opened to visitors by appointment only. For the latest status information on EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Carolyn Siu, Regulatory Support Branch (7101M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1205; email address: *siu.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Foreign Purchaser Acknowledgement Statement.

ICR numbers: EPA ICR No. 0161.16, and OMB Control No. 2070–0027.

ICR status: This ICR is currently scheduled to expire on December 31, 2022. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR addresses the information collection activities associated with the requirement that the EPA receive notice from pesticide registrants that foreign purchasers of unregistered pesticides exported from the United States. This statement is to ascertain understanding that the pesticide product cannot be sold in the United States. Section 17(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires an exporter of any pesticide not registered under FIFRA section 3 or sold under FIFRA section 6(a)(1) to obtain a signed statement from the foreign purchaser acknowledging that the purchaser is aware that the pesticide is not registered for use in, and cannot be sold in, the United States. A copy of this statement, which is known as the Foreign Purchaser Acknowledgement Statement, or FPAS, must be transmitted, by EPA, to the Designated National Authority or appropriate official of the government in the importing country. This information is submitted via mail or electronically through the Central Data Exchange (CDX) in the form of annual or per-shipment statements to EPA, which maintains original records and transmits copies, along with an explanatory letter, via email to appropriate government officials of the countries that are importing the pesticide.

In addition to the export notification for unregistered pesticides, FIFRA requires that all exported pesticides include appropriate labeling. There are different requirements for registered and unregistered products. For registered products, export labeling requirements alone meet the definition of third-party notification. In the interests of consolidating various related information collection requests, this ICR includes burden estimates for the FPAS requirement for unregistered pesticides, as well as the labeling requirement for all exported pesticides, both registered and unregistered. These burdens have been consolidated in this ICR since the implementation of the 1993 pesticide export policy governing the export of pesticides, devices, and active ingredients used in producing pesticides.

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.06 hours per response. Burden is defined in 5 CFR 1320.3(b).

Respondents/Affected Entities: Entities potentially affected by this ICR are individuals or entities engaged that either manufacture and export pesticides or that reformulate or repackage and export pesticides. The North American Industrial Classification System (NAICS) code assigned to the parties responding to this information is 3250A1.

Respondent's obligation to respond: Mandatory under FIFRA section 17(a)(2).

Estimated total number of potential respondents: 2,240.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 5,014.

Estimated total annual burden hours: 16,660 hours.

Estimated total annual costs: $1,265,501, which includes an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no change in burden from that currently approved by OMB. There were adjustments to the Agency burden estimate related to the ongoing COVID 19 public health emergency, during which EPA has had limited access to regular mail since March 2020, which prompted EPA to announce a temporary COVID 19 flexibility to allow for secure electronic submissions (86 FR 46246, August 18, 2021) (FRL–8721–01–OCSPP). Given this circumstance, EPA cannot yet estimate the annual changes in the number of submissions based on historical data about submission over the last 3 years, and/or changes in

burden since the existing ICR was approved by OMB. Instead, this ICR relies on previous estimates and assumes the numbers have largely remained steady over the past 3 years.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not expect this change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 23, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–04230 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0513; FRL–9573–01–OCSPP]

Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1, Table 1A and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows an October 25, 2021, **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II, to voluntarily cancel and amend to terminate uses of these product registrations. In the October 25, 2021, notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received two comments on the notice; one general comment concerning pesticides in general that did not directly apply to this notice, so no action or response was needed and the second merited its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2707; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0513, is available at *http://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. The Public Reading Room is 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1, Table 1A, and Table 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
279–3125	279	Fury 1.5 EC Insecticide	Zeta-Cypermethrin.
279–3248	279	Z-Cype 0.8 EW Insecticide	Zeta-Cypermethrin.
279–3249	279	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin.
279–3297	279	0.344% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.
279–3298	279	0.258% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.
279–3299	279	0.129% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
279–3327	279	Zeta-Cype 0.8EC Insecticide	Zeta-Cypermethrin.
279–3328	279	Zeta-Cype 0.8EW Insecticide	Zeta-Cypermethrin.
279–3381	279	Zeta-Cype 0.8 EC HSL Insecticide	Zeta-Cypermethrin.
2693–190	2693	Micron CSC Super with Bio-Lux Blue	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–197	2693	VC 17M with Biolux Original	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–198	2693	VC 17M with Biolux Red	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
9688–295	9688	Chemsico Fire Ant Killer 6B	Bifenthrin.
33270–12	33270	Tremor	Acetochlor.
34704–887	34704	Cypermethrin 25	Cypermethrin.
34704–897	34704	Cypro Termiticide/Insecticide	Cypermethrin.
42750–106	42750	Acetochlor 4.3 + ATZ 1.7	Atrazine & Acetochlor.
42750–108	42750	Acetochlor 3.1 + ATZ 2.5	Atrazine & Acetochlor.
42750–201	42750	Fluroxypyr + Clopyralid	Fluroxypyr-meptyl & Clopyralid, monoethanolamine salt.
42750–203	42750	Fluroxypyr + 2,4–D	2,4–D, 2-ethylhexyl ester & Fluroxypyr-meptyl.
42750–204	42750	Fluroxypyr 26.2% EC	Fluroxypyr-meptyl.
55467–17	55467	Volunteer 2EC Herbicide	Clethodim.
62719–536	62719	Starane NXTCP	Bromoxynil octanoate & Fluroxypyr-meptyl.
71173–1	71173	Acrocide	Acrolein.
71173–2	71173	AcroCide H Herbicide	Acrolein.
ID–080005	62719	Starane NXT	Bromoxynil octanoate & Fluroxypyr-meptyl.
ID–130010	34704	Colt CF Herbicide	Clopyralid & Fluroxypyr-meptyl.
FL–090011	279	Mustang Insecticide	Zeta-Cypermethrin.
FL–100002	279	Mustang Insecticide	Zeta-Cypermethrin.
KS–120001	55467	Tenkoz Atrazine 4L Herbicide	Atrazine.
NE–130001	279	F9114 EC Insecticide	Zeta-Cypermethrin.
TX–100011	279	Mustang Insecticide	Zeta-Cypermethrin.
TX–100012	279	Mustang Insecticide	Zeta-Cypermethrin.
WI–180008	279	F9114 EC Insecticide	Zeta-Cypermethrin.

TABLE 1A—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
100–1431	100	Gramoxone SL 2.0	Paraquat dichloride.

The registrant of the registration listed in Table 1A, has requested the date of March 30, 2022, for the effective date of cancellation.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
19713–97	19713	Drexel Linuron 4L	Linuron	Post-harvest, crop stubble, fallow ground stale seedbed (under soybean use directions).
19713–158	19713	Linuron Flake Technical	Linuron	Terrestrial Non-Cropland Uses (such as roadsides and fencerows).
19713–251	19713	Drexel Linuron DF	Linuron	Non-crop weed control (on all non-cropland areas including roadsides and fencerows).
19713–368	19713	Drexel Linuron Technical 2.	Linuron	Terrestrial Non-Cropland Uses (such as roadsides and fencerows).

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1, Table 1A and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
2693	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
9688	Chemsico, A Division of United Industries Corp., One Rider Trail Plaza Drive, Suite 300, Earth City, MO 63045–1313.
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327.
33270	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
42750	Albaugh, LLC, 1525 NE 36th Street, Ankeny, IA 50021.
55467	Tenkoz, Inc., 1725 Windward Concourse, Suite 410, Alpharetta, GA 30005.
62719	Corteva Agriscience, LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
71173	Multi-Chem Group, LLC—Odessa, 6155 W Murphy St., Odessa, TX 79763–7511.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received two comments on the notice, one general comment concerning pesticides in general that did not directly apply to this notice, so no action or response was needed, and the Agency does not believe the comment merits further review and the second comment merited its further review of the request. The second comment and the response from the Agency is below.

A. Comment

The **Federal Register** notice and docket provide inadequate information about how voluntary cancellation of Gramoxone SL 2.0 will conform to EPA's interim registration review decision for paraquat dichloride. Specifically, it is unclear whether existing stocks of Gramoxone SL 2.0 sold or distributed between March 30, 2022, and March 30, 2023, will bear a label that includes the additional restrictions on use set forth in EPA's interim decision. It would be inappropriate for EPA to approve any existing stocks provision that allows sale or distribution of product with labels that do not reflect the interim registration decision for paraquat dichloride. If the labels do not conform to that decision, the product would be misbranded because it would not contain directions EPA has deemed necessary to protect public health and the environment.

B. Response

The existing stocks provision for the voluntary cancellation of Gramoxone SL 2.0 is roughly consistent with the phase-out of existing labeling (and use of new labeling) that will occur in response to the Agency's interim decision for paraquat. The existing stocks provision for Gramoxone SL 2.0 permits the registrant to sell and distribute existing stocks of voluntarily canceled products for one year after the effective date of the cancellation, which will be March 30, 2023. Updated paraquat labels containing the additional restrictions from the interim decision are expected to be approved and stamped by the end of the 2022 calendar year. After the label approval, the registrants of the affected products must begin using the new labeling within 12 months of the label stamp date, roughly around the end of the 2023 calendar year.

Given that the interim decision labeling will not be in full effect until 2023, the continued sale and use of Gramoxone 2.0 with existing labels will be consistent with the implementation of the interim decision label language. Consequently, EPA has determined that the sale and use of existing stocks of Gramoxone 2.0 will not be inconsistent with the purposes of FIFRA.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Table 1, Table 1A and Table 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1, Table 1A and Table 2 of Unit II, are canceled and amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice is March 1, 2022. The effective date of the cancellation in Table 1A will be March 30, 2022. Any distribution, sale, or use of existing stocks of the products identified in Table 1, Table 1A and Table 2 of Unit II, in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI, will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of October 25, 2021 (86 FR 58906) (FRL–9119–01–OCSPP). The comment period closed on November 24, 2021.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States, and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For the voluntary cancellation request in Table 1A, the registrant requested March 30, 2022, as the effective date of cancellation; therefore, the registrant may continue to sell and distribute existing stocks of products listed in Table 1A until March 30, 2023, which is 1 year after the effective date of the cancellation. Thereafter, the registrant is prohibited from selling or distributing products listed in Table 1A of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

For all other voluntary cancellations listed in Table 1, the registrants may continue to sell and distribute existing stocks of products listed in Table 1 until March 1, 2023, which is 1 year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II, under the previously approved labeling until September 1, 2023, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants

will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 18, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2022–04232 Filed 2–28–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receivership

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for the institution listed below intends to terminate its receivership for said institution.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIP

Fund	Receivership name	City	State	Date of appointment of receiver
10488	First National Bank	Edinburg	TX	09/13/2013

The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on February 23, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–04205 Filed 2–28–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, or TDD (202) 263–4869, not later than March 16, 2022.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to *MA@mpls.frb.org:*

1. *The LeGare Revocable Trust dated July 23, 2018, Greg LeGare and Elaine LeGare, as trustees, all of Osseo, Wisconsin; Bradley LeGare and Sharon LeGare, both of St. Charles, Illinois; Jeffrey P. LeGare, Lucas, Texas; Jennifer LeGare, Eau Claire, Wisconsin; and Pamela LeGare-Van Hout, Appleton, Wisconsin;* to become the LeGare Group, a group acting in concert, to retain voting shares of Platinum Bancorp, Inc., and thereby indirectly retain voting shares of Platinum Bank, both of Oakdale, Minnesota. This notice replaces FR Doc. 2022–03603, published on 02–18–2022 at 87 FR 9347.

Board of Governors of the Federal Reserve System, February 23, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–04204 Filed 2–28–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Capital Assessments and Stress Testing Reports (FR Y–14A/Q/M; OMB No. 7100–0341).

DATES: Comments must be submitted on or before May 2, 2022.

ADDRESSES: You may submit comments, identified by FR Y–14A/Q/M, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collections

Report title: Capital Assessments and Stress Testing Reports.

Agency form number: FR Y–14A/Q/M.

OMB control number: 7100–0341.

Frequency: Annually, quarterly, and monthly.

Respondents: These collections of information are applicable to bank holding companies (BHCs), U.S. intermediate holding companies (IHCs), and savings and loan holding companies (SLHCs) with $100 billion or more in total consolidated assets, as based on: (i) The average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's Consolidated Financial Statements for Holding Companies (FR Y–9C); or (ii) if the firm has not filed an FR Y–9C for each of the most recent four quarters, then the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y–9C. Reporting is required as of the first day of the quarter immediately following the quarter in which the respondent meets this asset threshold, unless otherwise directed by the Board.

Estimated number of respondents: FR Y–14A/Q: 36; FR Y–14M: 34;[1] FR Y–14 On-going Automation Revisions: 36; FR Y–14 Attestation On-going: 8.

Estimated average hours per response: FR Y–14A: 1,330 hours; FR Y–14Q: 1,999 hours; FR Y–14M: 1,071 hours; FR Y–14 On-going Automation Revisions: 480 hours; FR Y–14 Attestation On-going: 2,560 hours.

Estimated annual burden hours: FR Y–14A: 47,880 hours; FR Y–14Q: 287,852 hours; FR Y–14M: 436,968 hours; FR Y–14 On-going Automation Revisions: 17,280 hours; FR Y–14 Attestation On-going: 20,480 hours.

General description of report: This family of information collections is composed of the following three reports:

• The annual FR Y–14A collects quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios.[2]

• The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, trading assets, and pre-provision net revenue (PPNR) for the reporting period.

• The monthly FR Y–14M is comprised of three retail portfolio- and loan-level schedules, and one detailed address-matching schedule to supplement two of the portfolio- and loan-level schedules.

The data collected through the FR Y–14A/Q/M reports (FR Y–14 reports) provide the Board with the information needed to help ensure that large firms have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are

[1] The estimated number of respondents for the FR Y–14M is lower than for the FR Y–14Q and FR Y–14A because, in recent years, certain respondents to the FR Y–14A and FR Y–14Q have not met the materiality thresholds to report the FR Y–14M due to their lack of mortgage and credit activities. The Board expects this situation to continue for the foreseeable future.

[2] In certain circumstances, a firm may be required to re-submit its capital plan. See 12 CFR 225.8(e)(4); 12 CFR 238.170(e)(4). Firms that must re-submit their capital plan generally also must provide a revised FR Y–14A in connection with their resubmission.

sufficient, given their business focus, activities, and resulting risk exposures. The data within the reports are used to set firms' stress capital buffer (SCB) requirements. The data are also used to support other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms' planning and management of liquidity and funding resources, as well as regular assessments of credit risk, market risk, and operational risk, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of respondent financial institutions. Respondent firms are currently required to complete and submit up to 17 filings each year: One annual FR Y–14A filing, four quarterly FR Y–14Q filings, and 12 monthly FR Y–14M filings. Compliance with the information collection is mandatory.

Proposed revisions: The proposed revisions would enable the Board to better identify risk as part of the stress test, to better facilitate data reconciliation, and to mitigate ambiguity within the instructions. Data reconciliation is an important step in the stress testing analysis conducted by the Federal Reserve, as it ensures values are being reported consistently across firms. Consistent data leads to consistent treatment for stress testing purposes, which is critical, as stress testing is used to determine a firm's capital requirements via the SCB requirement. The Board also proposes revisions and clarifications to the instructions. All proposed revisions would be effective for the September 30, 2022, report date for the FR Y–14Q and FR Y–14M, and for the December 31, 2022, report date for the FR Y–14A.

General

The Board proposes to change the as-of date of the fourth quarter, unstressed submissions of FR Y–14Q, Schedules F (Trading) and L (Counterparty). Per the FR Y–14Q instructions, firms are required to report these schedules the earlier of fifty-two calendar days following the date on which they are notified of the global market shock (GMS) date, or March 15. The instructions also state that unless the Board requires the data to be provided over a different weekly period, firms may provide these data as of the most recent date that corresponds to their weekly internal risk reporting cycle as long as it falls before the as-of date. The Board proposes to revise the instructions to allow firms to use the most recent date that corresponds to their weekly internal risk reporting cycles as long as it falls within the same calendar week as the as-of date. This change would provide firms with more flexibility in reporting these schedules and would correspond to guidance provided in the *Dodd-Frank Act Stress Test Publications: 2021 Stress Test Scenarios* document.[3]

Capital

Savings and Loan Holding Companies

On February 3, 2021, the Board adopted a final rule [4] to tailor the requirements in the Board's capital plan rule [5] based on risk. As part of the final rule, the Board adopted several revisions, notably that SLHCs would be subject to capital planning requirements beginning with the 2022 stress testing and capital planning cycle (cycle). Previously, SLHCs were not required to submit FR Y–14Q, Schedule C (Regulatory capital instruments) and Schedule D (Regulatory capital) because they were not subject to capital planning requirements. However, given that SLHCs will now be subject to these requirements, the Board proposes to require SLHCs to submit these schedules.[6] This revision would align with the spirit of the capital plan rule.

Assumptions Associated With Comprehensive Capital Analysis and Review (CCAR) Submissions

The FR Y–14A, Schedule A (Summary) instructions describe when firms must use ''planned capital actions'' and ''alternative capital actions,'' but do not define either term or list the required assumptions for reported capital actions. Because the Board did not release CCAR instructions [7] for the 2021 cycle, it instead issued a CCAR Q&A (GEN0500) that contained the definitions and assumptions of capital actions required per the capital plan rule. The Board proposes to incorporate the definitions and assumptions of ''planned capital actions'' and ''alternative capital actions'' previously contained in CCAR Q&A GEN0500 into the FR Y–14A instructions to provide clarity regarding the meaning of these terms.

Under the supervisory severely adverse (SSA) scenario CCAR submission, firms are required to include the effects of planned business plan changes (BPCs) and use planned capital actions. Per the Board's capital rule,[8] if a firm does not stay above its minimum capital requirements, including regulatory capital buffers that may encompass the SCB requirement, then it is subject to automatic restrictions on capital distributions and discretionary bonus payments. Requiring firms to assume that their planned BPCs and planned capital actions will occur under stressed conditions has resulted in unrealistic projections, as some or all of the planned capital actions would not be able to materialize if firms dropped into their regulatory capital buffers over the course of the projection horizon. Under the Internal stress scenario, firms are required to only include the effects of planned BPCs that the firm anticipates occurring, given the scenario, and to use alternative capital actions. To improve comparability between the CCAR Summary submissions under the Internal stress and SSA scenarios, the Board proposes to revise the planned BPC and capital action assumptions of the Summary CCAR submission under the SSA scenario to match those of the Internal stress scenario.

Firms are required to incorporate the effects of planned, material BPCs in their CCAR submissions of the Summary schedule. The instructions do not specify whether firms must also include the effects of planned, immaterial BPCs that firms anticipate occurring over the projection horizon under baseline or stressed conditions. For clarity, the Board is proposing to revise the instructions to give firms the option to include the effects of planned, immaterial BPCs in their CCAR Summary submissions. Inclusion of the effects of planned, material BPCs in CCAR Summary submissions will still be required.

Other Proposed Changes

The Board often provides firms the option to phase in the effects of new accounting standards or other changes that affect the calculation of regulatory capital through the use of transition provisions (*e.g.,* transitioning the impact of current expected credit loss methodology (CECL) adoption on regulatory capital). Firms must report

[3] See Board of Governors of the Federal Reserve System, *Dodd-Frank Act Stress Test Publications: 2021 Stress Test Scenarios* (Washington: Board of Governors, February 2021), *https://www.federalreserve.gov/publications/stress-test-scenarios-february-2021.htm.*

[4] 86 FR 7927 (February 3, 2021).

[5] 12 CFR 225.8.

[6] SLHC requirements for submitting the capital information required in these schedules for the 2022 cycle is forthcoming.

[7] For an example of these instructions, *see* Board of Governors of the Federal Reserve System, *Comprehensive Capital Analysis and Review 2020 Summary Instructions* (Washington: Board of Governors, March 2020), *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200304a3.pdf.*

[8] 12 CFR part 217.

regulatory capital items on FR Y–14Q, Schedule D (Regulatory Capital) exclusive of the effects of transition provisions, whereas regulatory capital items on FR Y–9C, Schedule HC–R (Regulatory Capital) may be reported inclusive of transition provisions if firms elect to apply the transition provisions. As described in the *Dodd-Frank Act Stress Test 2021: Supervisory Stress Test Methodology* document,[9] the Board adjusts the numerator and denominator of the supervisory stress test capital calculations to align with the capital rule, which includes the effects of transition provisions. To ensure consistency with regulatory capital balances that are used in the capital calculations of the supervisory stress test and to improve comparability across the capital schedules of the FR Y–14Q and FR Y–9C, the Board proposes to revise Schedule D to remove the requirement that firms exclude the effects of transition provisions.

Firms currently report the carrying value of capital instruments at quarter-end in Column I (''Carrying value, as of quarter-end'') of FR Y–14Q, Schedule C.1 (Regulatory capital instruments as of quarter end). On this schedule, firms also report some components that affect the carrying value, such as the fair value of swaps associated with the capital instrument (Column K). Not all categories of components that affect the carrying value have their own item, and some components may only be applicable to certain capital instruments. The Board proposes to add an item to capture all other changes that affect the carrying value of an instrument that are not currently captured by the existing component items. This item would enhance data reconciliation efforts for Schedule C.1.

Firms report repurchases and redemptions on both FR Y–14A, Schedule C (Regulatory capital instruments) and FR Y–14Q, Schedule C (Regulatory capital instruments). The FR Y–14A, Schedule C instructions require firms to report repurchases and redemptions as negative values. The FR Y–14Q, Schedule C instructions do not specify how to report repurchases and redemptions, and so, there is diversity in practice across firms. For consistency between the reports, the Board proposes to require repurchases and redemptions to be reported as negative values on FR Y–14Q, Schedule C.

Firms report dividends on FR Y–14A, Schedule A.1.d (Capital) and Schedule C. The instructions for dividend items on Schedules A.1.d and C reference definitions on FR Y–9C, Schedule HI–A (Changes in holding company equity capital). On Schedule HI–A, firms report values on a year-to-date basis, while most items on Schedules A.1.d and C are reported on a quarter-to-date basis. As a result, some firms have reported dividend items on a year-to-date basis, while others report values on a quarter-to-date basis. To remove ambiguity, the Board proposes to revise the instructions for the following items to specify that these items must be reported on a quarter-to-date basis:

- ''Cash dividends declared on preferred stock'' (Schedule A.1.d, item 12; Schedule C item 116); and
- ''Cash dividends declared on common stock'' (Schedule A.1.d, items 13 and 117; Schedule C, item 117).

Firms are required to report issuances of capital and subordinated debt instruments on FR Y–14Q, Schedule C.3 (Regulatory capital and subordinated debt instruments issuances during quarter). The instructions do not specify whether subordinated debt instruments that were acquired must be reported on Schedule C.3. Such instruments were not issued by a firm but are new to a firm's balance sheet. Given that these instruments are new to a firm's balance sheet, the Board proposes to revise the instructions to state that subordinated debt instruments acquired via a merger or acquisition must be reported on Schedule C.3. The Board proposes to further clarify that firms must also report on Schedule C.3 situations in which a Committee on Uniform Securities Identification Procedures (CUSIP) number for a subordinated debt instrument changes, even if the terms of the instrument did not change. This revision would ensure that CUSIP number changes are properly captured.

Firms are required to report the unamortized discounts/premiums, fees, and foreign exchange translation impacts as of quarter-end in Column J of FR Y–14Q, Schedule C.1. However, there is inconsistency across firms in terms of whether discounts and premiums must be reported as positive or negative values. To remove ambiguity, the Board proposes to clarify that unamortized amounts of discounts must be reported as positive values and unamortized amounts of premiums must be reported as negative values. These revisions would standardize the reporting of this item.

To further enhance data reconciliation efforts, the Board proposes to add four items to FR Y–14Q, Schedule C.1. The specific items the Board proposes to add are:

- ''Interest expense for the quarter (net of swaps);''
- ''Interest expense for the quarter (with swaps, excluding any gains or losses due to the fair value adjustment of ASC 185/FAS 133 hedges);''
- ''Interest expense for the quarter (with swaps, this number should reconcile to the quarterly number reported in FR Y–9C BHCK4397 for all subordinated debt instruments);'' and
- ''Fair value adjustment at the quarter end for subordinated debt securities that are carried at fair value.''

The addition of these items would ensure that balances on Schedule C.1 are properly reconciled for use in supervisory models. With the addition of these items, the Board also proposes to remove the following four items from Schedules C.1 and C.3, as they would no longer be needed:

- ''Y–9C BHCK4602 reconciliation'' (Column N of Schedule C.1);
- ''Currency of foreign exchange swap payment'' (Column LL of Schedule C.3);
- ''Notional amount of foreign exchange swap ($ Million)'' (Column MM of Schedule C.3); and
- ''Exchange rate implied by foreign exchange swap'' (Column NN of Schedule C.3).

Securities

Firms are required to report the amount of allowance for credit losses in FR Y–14Q, Schedule B.1 (Securities 1—main schedule). However, the instructions for this item do not specify whether amounts must be reported as positive or negative values. To improve the consistency of reporting across firms, the Board proposes to revise the instructions to indicate that the allowance for credit losses on Schedule B.1 must be reported as a positive number. This revision would better enable the Board to compare reported values, as all values would be reported in the same manner.

Trading

As mentioned in the *Dodd-Frank Act Stress Test 2021: Supervisory Stress Test Methodology* document,[10] the Board adjusts a firm's trading profit and loss to estimate losses on private equity investments in affordable housing that qualify as public welfare investments under Regulation Y. The data used to make this adjustment is currently

[9] *See* Board of Governors of the Federal Reserve System, *Dodd-Frank Act Stress Test 2021: Supervisory Stress Test Methodology* (Washington: Board of Governors, April 2021), *https://www.federalreserve.gov/publications/files/2021-april-supervisory-stress-test-methodology.pdf.*

[10] *See* Board of Governors of the Federal Reserve System, *Dodd-Frank Act Stress Test 2021: Supervisory Stress Test Methodology* (Washington: Board of Governors, April 2021), *https://www.federalreserve.gov/publications/files/2021-april-supervisory-stress-test-methodology.pdf.*

collected through a supplemental collection, and the Board proposes to formalize this supplemental collection by incorporating its key elements into FR Y–14Q, Schedule F.24 (Private equity). This proposal would require firms to isolate and report private equity exposures that qualify as public welfare investments in new line items. The instructions would specify that a public welfare investment is defined as an equity investment in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas.[11] Incorporating this supplemental collection into FR Y–14Q, Schedule F (Trading) would allow for more standardized reporting, which is crucial to ensure private equity investments in affordable housing that qualify as public welfare investments are treated the same across firms.

The Board also proposes to make clarifications to the Schedule F instructions regarding the reporting of accrual loan and fair value option (FVO) loan hedges across Schedule F, the reporting of interest rate basis risk on Schedule F.6 (Rates DV01), and limiting the allowable units used to report interest rate sensitivities on Schedule F.7 (Rates Vega). These clarifications would remove ambiguity around the reporting of hedges on Schedule F and would standardize reporting of interest rate information, which would improve data comparability across firms.

Counterparty

Client-Cleared Derivative Exposures

Beginning with the June 30, 2021, as-of date, firms became required to include client-cleared derivative exposures in FR Y–14Q, Schedule L (Counterparty).[12] Exposures to client-cleared derivatives are excluded from the calculation of stressed losses. As part of Schedule L.5 (Derivatives and securities financing transaction profile), firms are required to rank their top 25 exposures by certain counterparty methodologies. Client-cleared derivative exposures are currently excluded from these rankings. The Board proposes to require firms to rank their top 25 exposures for client-cleared derivatives on Schedule L.5. This new ranking would enable the Board to continue to exclude exposures to client-cleared derivatives from the calculation for stressed losses and would provide more insight into the size and diversity of these exposures. As part of this revision, the Board would also modify the instructions to reinforce that exposures to client-cleared derivatives must be excluded from other top 25 rankings.

Counterparty Identification

Firms are required to report counterparty attribute information (*e.g.,* legal entity identifier (LEI), industry code, etc.) at the counterparty legal entity level on FR Y–14Q, Schedule L. The Board proposes to require firms to report counterparty attribute information at the consolidated/parent level in addition to the counterparty legal entity level. Collecting this information at the consolidated/parent level would enable the Board to better identify exposures to parent and subsidiary entities within the same organizational structure, which would allow for a more robust analysis of counterparty exposure. This more robust analysis would improve the Board's ability to evaluate the counterparty risk faced by firms.

Additional/Offline Credit Valuation Adjustment (CVA) Reserves

Firms are currently required to report ''trades not captured'' in the ''Additional/offline CVA Reserves'' item of FR Y–14Q, Schedule L.1.e (Aggregate CVA data by ratings and collateralization). ''Trades not captured'' refers to trades or counterparties for which CVA is computed outside of a firm's regular CVA system, which could occur due to the complexity or novelty of a particular trade. Such trades would not be captured in Schedules L.2 (EE [Expected exposure] profile by counterparty) or L.3 (Credit quality by counterparty) due to the custom CVA approximation methodology of these trades. The instructions for the ''Additional/offline CVA Reserves'' item require firms to report exposures to counterparties only at the aggregate level. Several firms report significant portions of their counterparty exposures as additional/offline CVA reserves. The Board proposes to require firms to report these exposures by rating, which is more granular than the current requirements, to better understand, identify, and monitor risks associated with exposures reported in this item. Such data would provide a more complete picture of counterparty exposures at firms with significant amounts reported as additional/offline CVA reserves.

Unstressed vs. Stressed Counterparty Submissions

Firms are required to report unstressed data on Schedule L quarterly and are required to report stressed data on this schedule annually. The Schedule L instructions note that for unstressed submissions, firms must only include exposures in certain sub-schedules for which the firm computes CVA for its public financial statement reported under U.S. generally accepted accounting principles (U.S. GAAP) or applicable standard. However, for stressed submissions, firms must also include transactions that would not typically require CVA for public financial statement reporting under U.S. GAAP or applicable standard (*e.g.,* fully- or over- collateralized derivatives). Therefore, the scope of reported exposures is larger for stressed submissions.

The scope of reported exposures on FR Y–14Q, Schedule L expanded for data as of June 30, 2020, to include securities financing transactions (SFTs).[13] This additional scope of transactions increases the divide between the transactions reported on unstressed submissions compared to those reported on stressed submissions. As a result of this greater divide and to better compare the impact of stressed conditions on a firm's counterparty exposures, the Board proposes to require aggregate unstressed CVA related exposures to be reported together with stressed exposures in Schedule L.1.e. This data would give the Board a more complete understanding of firms' counterparty credit risk, as it would enable the Board to directly compare the same exposures under unstressed and stressed conditions.

Wrong-Way and Right-Way Risk

Across Schedule L, firms are required to report wrong-way risk and right-way risk exposures. Wrong-way risk arises when the exposure to a counterparty is adversely correlated with the credit quality of that counterparty. Right-way risk occurs when this situation is reversed. When wrong-way risk is directly connected to a particular counterparty (*e.g.,* the counterparty's rating was downgraded), it is referred to as specific wrong-way risk. Due to questions received from reporting firms, the Board proposes to clarify how to report occurrences of specific wrong-way risk. The Board proposes to require

[11] For reporting public welfare investments made at the bank holding company level, an affordable housing private equity investment would be recognized by the Federal Reserve if it also qualifies under 12 CFR 225.28(b)(12) and 12 CFR 225.127. For reporting public welfare investments made at the bank level, an affordable housing private equity investment would be recognized by the Federal Reserve if it also qualifies under the applicable public welfare investment criteria of the bank's primary Federal regulator.

[12] 85 FR 56607 (September 14, 2020).

[13] 84 FR 70529 (December 23, 2019).

firms to assume zero for the value of the received collateral during the calculation of both stressed and unstressed net current exposure when specific wrong-way risk is present in the collateral. This revision would align with the principle of conservatism in the Board's Stress Testing Policy Statement.[14]

The Board also proposes to incorporate the response to FR Y–14 Q&A #1374 to remove ambiguity regarding the reporting of right-way risk on Schedule L. Specifically, the Board would revise the instructions to require firms to exclude stressed exposures on trades where the exposure is eliminated upon default of the counterparty. This revision would ensure that only true exposures are captured on Schedule L.

Discount Factor

Firms are required to report the discount factor used to calculate stressed and unstressed CVA on Schedule L.2. The instructions for this item mention the London Interbank Offered Rate (LIBOR), which was discontinued at the end of 2021. Given this, the Board proposes to generalize the language to instead mention the reference or benchmark rate used to discount the expected exposure in a firm's CVA model. This revision would allow for more flexibility since LIBOR was discontinued.

Unique Identifiers

The general instructions of Schedule L state that unique identifiers (*e.g.,* Counterparty ID) and names must be consistent across all sub-schedules. However, the Board has identified several cases in which this requirement has not been met. To reinforce this requirement, the Board proposes to add language to the instructions for Schedules L.2 and L.3 to remove any potential uncertainty in reporting unique identifiers. This revision would result in more consistent reporting across Schedule L.

Collateral

Firms are required to report the total unstressed mark-to-market value of collateral of derivatives on Schedule L.5.1 (Derivative and SFT information by counterparty legal entity and netting set/agreement). The instructions note that all collateral reported must be eligible financial collateral. The Board clarified through FR Y–14 Q&A #1155 that eligible financial collateral refers to the definition of ''financial collateral'' in the Board's capital rule.[15] To mitigate confusion, the Board proposes to incorporate the response to Q&A #1155 into the Schedule L.5.1 instructions.

Firms are also required to report the type of non-cash collateral or initial margin (*e.g.,* corporate debt) allowed under a given agreement in the ''Non-Cash Collateral Type'' item of Schedule L.5.1. The instructions for this item only mention posted collateral in terms of what must be reported. In response to questions from reporting firms, the Board proposes to require firms to include all non-cash collateral or initial margin that was posted or received in actuality as opposed to only those allowed under a given agreement. This revision would reduce ambiguity surrounding what to report and would also provide the Board with a more encompassing view of the non-cash collateral involved in applicable transactions. This more encompassing view would result in more accurate loss calculations and would enhance risk monitoring.

Credit Support Annexes (CSAs)

On Schedule L.5.1, firms are required to indicate in the ''CSA contractual features (non-vanilla)'' item whether any transactions conducted under a given CSA agreement have any non-vanilla contractual features (*e.g.,* downgrade triggers). However, the instructions for this item do not specify how firms should report transactions that have vanilla contractual features. The Board proposes to clarify that for such transactions, firms must report ''NA'' in this item.

Due to questions from reporting firms, the Board also proposes to clarify that the ''CSA contractual features (non-vanilla)'' item applies to any non-standard market terms inclusive of features such as minimum threshold amounts (MTAs), changes to MTAs, additional termination events, and ratings-based thresholds. This revision would remove uncertainty regarding what features are considered non-vanilla for purposes of this item.

Reporting Scope

On Schedules L.1–L.3, top counterparties are identified based on the exposure amount at a consolidated counterparty level for ranking purposes in determining top 95% stressed or unstressed CVA. The Board has received several questions regarding the scope of this reporting, including consistency across schedules. To remove ambiguity, the Board proposes to clarify that if a consolidated or parent counterparty is selected as top 95% of CVA, then a firm's exposures to all the counterparties and legal entities associated with the consolidated or parent counterparty must be included and reported in L.1 (Derivatives profile by counterparty and aggregate across all counterparties), rather than including only counterparties and legal entities with which the firm has a CVA. In comparison, the firm can report in Schedules L.2 and L.3 the exposure information limited to the legal entities and/or netting sets with which the firm has a CVA. These revisions would provide a more complete view of counterparty exposures faced by firms and would incorporate responses to FR Y–14 Q&As #1180 and #1190 into the Schedule L instructions.

Per FR Y–14 Q&A #1181, Schedules L.1.a and L.1.b (Top consolidated/parent counterparties comprising 95% of firm unstressed CVA, ranked by unstressed and stressed CVA, respectively) must be reported at the legal entity level, at a minimum. This is also true for Schedules L.2 and L.3. The Board has received several questions from reporting firms regarding providing data at the netting set or sub-netting level. In light of these questions, the Board proposes to clarify that firms may choose to report these schedules at the netting set or sub-netting set level. Note that the Schedule L instructions specify that if a firm chooses to report one of these schedules at the netting set or sub-netting set level, then it must report all of them at that level.

Gross Current Exposure

In several places on Schedule L.1, firms are required to report the gross current exposure of given transactions. Gross current exposure is defined as pre-collateral exposure after bilateral counterparty netting. The Board has received questions from reporting firms on whether fair-valued SFTs should be in scope for reporting in the gross current exposure items. The questioners note that the definition provided applies to derivatives but does not apply to SFTs. The Board clarified in FR Y–14 Q&A #1279 that gross current exposure items only apply to derivatives and must be left blank for SFTs. The Board proposes to incorporate this response into the Schedule L.1 instructions.

Minimum Transfer Amounts

Firms are required to report the minimum amounts that must be transferred to the counterparty and to the reporting firm in the event of a margin call in Schedule L.5.1. Due to observed diversity in reporting, the Board proposes to specify that firms must report the U.S. dollar equivalent of values reported in these items, as opposed to the non-U.S. dollar local

[14] Appendix B of 12 CFR 252.

[15] 12 CFR 217.2.

currency associated with a particular CSA. This revision would standardize the units reported in this item and improve comparability across exposures.

Other Revisions

The instructions for Schedule L.5 state that for positions with no legal netting set agreement, mark-to-market amounts can be aggregated and reported as a single record. The instructions further state that firms must report ''N'' in the ''Legal Enforceability'' item and ''None'' in the ''Netting Set ID'' item for such aggregated records. In the case of the ''Legal Enforceability'' item, these instructions are redundant and in the case of the ''Netting Set ID'' item, they conflict with language provided later in the Schedule L.5 instructions. The Board proposes to remove the redundant and conflicting language from Schedule L.5, which would clarify that firms must only report ''NA'' in the ''Netting Set ID'' item for positions with no legal agreement. This revision would incorporate the response from FR Y–14 Q&A #1383 into the Schedule L instructions.

Firms are required to report mark-to-market amounts that reflect the positive or negative contribution to an exposure upon counterparty default and close-out netting in Schedule L.5. The Board has received questions from reporting firms about whether this language applies to both derivatives and SFTs. Reporting firms have also asked the Board how to report in line with the instructions in cases where close-out netting for SFTs is not enforceable (*i.e.,* the SFT mark-to-market received cannot be netted against the amount posted when calculating current exposure). The Board clarified in FR Y–14 Q&A #1386 that the language regarding reporting mark-to-market amounts that reflect the positive or negative contribution to an exposure upon counterparty default and close-out netting only applies to derivatives and not to SFTs. In this FR Y–14 Q&A, the Board also clarified that firms must report zero in cases where the SFT close-out netting is not enforceable. The Board proposes to incorporate the response in FR Y–14 Q&A #1386 into the instructions by (1) revising the Schedule L.5 general instructions to specify that the language reflecting the positive or negative contribution to exposure upon counterparty default only applies to derivatives, and (2) revising the ''Unstressed Mark-to-Market Received (SFTs)'' and ''Stressed Mark-to-Market Received (SFTs)'' items of Schedule L.5.1 to specify that in cases where the close-out netting is not enforceable, firms must report zero. Relatedly, since the Board is proposing to revise the Schedule L.5 general instructions to specify reporting for derivatives, the Board also proposes to revise the instructions for the stressed and unstressed mark-to-market received and posted SFT items on Schedule L.5.1 to clarify that these items must be reported as positive values.

Firms became required to include exposures to client-cleared derivatives in Schedule L.5 for the June 30, 2021, as-of date. As part of this requirement, firms must report SFT exposures when a firm acts as an agent on behalf of a client for which lender indemnification has been provided against the borrower's default. Due to observed diversity in reporting practices, the Board proposes to revise the Schedule L.5 instructions to clarify that firms must also include SFT exposures when the firm acts as an agent on behalf of a client for which a credit guarantee has been provided against the borrower's default. This revision would reinforce the original intent of adding the reporting of exposures to client-cleared derivatives to Schedule L.5, in that it would require firms to report their indirect exposures to clients when credit risk is present, regardless of whether that exposure arises from a lender indemnification or a credit guarantee.

Firms are required to report stressed CVA values on Schedules L.1 and L.5.1. On Schedule L.1, the instructions state that firms must report the full revaluation of asset-side CVA under stressed conditions. On Schedule L.5.1, the instructions state that firms must only include stressed CVA as it relates to derivatives. For consistency across Schedule L, the Board proposes to revise the ''Stressed CVA'' item of Schedule L.5.1 to require firms to include stressed CVA as it relates to SFTs, as well as continue to include stressed CVA as it relates to derivatives. This revision would allow the Board to get a more complete and consistent picture of CVA exposure across reporting firms.

Wholesale

Internal Risk Rating

Firms began reporting FR Y–14Q, Schedule H.4 (Internal risk rating) as of March 31, 2020.[16] On this schedule, firms are required to report the ratings used in their internal risk rating system, as well as a description of each rating. There has been a wide variety of internal ratings and descriptions provided, which has made evaluations across firms difficult. To improve comparability of internal ratings reported in this schedule, the Board proposes to add three items: Minimum probability of default, maximum probability of default, and the calculation method of the probability of default (*i.e.,* calculated through the cycle or as a point-in-time value). The minimum and maximum probability of default items would allow the Board to assess credit risk more easily across firms by providing benchmark values for internal ratings. The type of probability of default item would provide critical information for how the minimum and maximum values are calculated (*e.g.,* point in time calculation). The addition of these items would enhance wholesale risk monitoring.

Undrawn Commitments

Firms are required to report the interest rate charged on the credit facility for corporate and commercial real estate (CRE) loans on FR Y–14Q, Schedule H.1 and H.2, items 38 and 27, respectively. The instructions require the reporting of the most conservative interest rate for fully undrawn facilities, which was intended to accommodate a scenario in which there are multiple interest rate options, and the actual interest rate would not be known until the loan was drawn. However, reporting firms have asked how to report a second scenario where a facility is comprised of multiple lines of credit, each with a separate interest rate. The Board proposes to clarify the reporting requirements for these two scenarios in the instructions to improve consistency and mitigate confusion. For the first scenario, the Board proposes to clarify that the instruction to report the most conservative interest rate only applies to situations where the obligor has a choice of interest rates and one is chosen when the line is drawn. For the second scenario, the instructions would require firms to report the dollar-weighted average interest rate that approximates the overall rate as if the credit facility were funded and fully drawn on the reporting date.

Update Property Type Options

Firms currently report the property type of their CRE loans on FR Y–14Q, Schedule H.2, in item 9 (''Property Type''). While this item contains multiple property type options, the structure of the CRE market has changed since these initial property type options were implemented for this item. More specifically, over the past decade, there has been rapid growth in the healthcare

[16] 84 FR 70529 (December 23, 2019).

and assisted living industry, resulting in demographic changes, as well as in e-commerce platforms, which rely on warehouses for storage. The existing property type options do not separately break out these industries, and these CRE loans are commingled with other property types in other options. The Board proposes to update the property type options to include ''Healthcare/Assisted Living'' and ''Warehouse/Distribution.'' This revision would improve risk identification within the CRE portfolio.

Clarify Informal ''Advised Lines'' Exclusion

On FR Y–14Q, Schedule H.1, the instructions for corporate loan population state to exclude informal ''advised lines,'' but the current definition of this term is ambiguous, potentially resulting in the exclusion of more commitments than there should be. The Board proposes to modify the language to clarify that only lines of credit that are unknown to the customer must be excluded from Schedule H.1. This modification would ensure that all applicable commitments are reported, other than the clearly defined exclusions.

Retail

Credit Score Reporting Requirements

Firms are required to report the origination credit bureau score for the primary account holder and the refreshed credit bureau score for domestic credit card account holders on FR Y–14M, Schedule D (Domestic credit card) in items 38 and 40, respectively. For both items, the instructions allow firms to map an internal credit score used to determine the primary account holder's creditworthiness to a commercial credit score for cases in which a commercial credit score was not obtained or was not being used to evaluate the creditworthiness of the primary account holder. The ability to map an internal credit score to a commercial credit score has resulted in reporting inconsistencies, due to the subjectivity of the mapping. To standardize the reporting of credit scores, the Board proposes to revise the language in the instructions for both items to require firms to report a commercial credit score if one was available at origination or refresh for the primary account holder. The Board proposes to further revise the instructions to state that if a commercial credit score was not available at the time of origination or refresh and if the underwriting decision was based on an internal score, then firms would be required to map their internal credit scores to commercial credit scores.

Firms are also required to report the FICO score range of the credit score of the borrower at origination in the ''Original commercially available credit bureau score or equivalent'' segment variable on all sub-schedules of FR Y–14Q, Schedule A (Retail). The instructions for this segment variable allow the reporting of an internal credit score mapped to a commercial credit score if an internal score was used in the original underwriting decision. To also standardize credit score reporting on Schedule A, the Board proposes to require firms to report a commercial credit score if one was available at origination. Firms would be required to map their internal credit scores or non-FICO commercial credit scores to FICO credit scores if a FICO credit score was not available at origination. Additionally, the instructions for this segment variable require firms to report in FICO credit score ranges and state that upon request, the Federal Reserve will provide ranges for other commercial credit scores. However, to further standardize the reporting of credit scores, the Board proposes to remove this sentence from the instructions. Removing this sentence would require firms to create their own mappings from their internal credit scores or from non-FICO commercial credit scores to FICO credit scores.

Loans in Forbearance or Other Loss Mitigation Situations

The coronavirus disease 2019 (COVID) event caused an increase in loans in forbearance or other loss mitigation situations (collectively, ''loss mitigation''). These loans have different risk characteristics than other loans reported on the FR Y–14M. While there are some loss mitigation items on the FR Y–14M, the Board observed during the COVID event that there are still data gaps, and several loss mitigation items did not have the flexibility to capture loss mitigation in the face of occurrences such as the COVID event. To fill observed data gaps, the Board proposes to add a ''Workout Type Started'' item to Schedule A (Domestic first lien) and Schedule B (Domestic home equity), as well as an ''Actual Payment Amount'' item to Schedule A. The ''Workout Type Started'' item would be used in conjunction with the ''Workout Type Completed'' item (Schedule A, item 77; Schedule B, item 61) and would allow the Board to track any changes to the loss mitigation plans of the loan once a loan has undergone loss mitigation. The ''Actual Payment Amount'' item would allow the Board to track actual payments made on loans, which would enable the Board to better monitor activity on loans in loss mitigation. Note that this item is only being proposed to be added to Schedule A because an equivalent item already exists on Schedule B (item 68).

Firms are required to report the principal deferred amount and the principal write-down amount in items 87 and 89, respectively, of Schedule A. Per the instructions, these items are only reported if the loan has been modified. During the COVID event, certain loans were not modified but did experience principal deferrals and write-downs. However, these amounts were not reported on Schedule A due to the requirement that the loans be modified. To expand the circumstances under which firms would report these items, the Board proposes to remove the requirement that these items only be reported if loans are modified. Relatedly, the Board proposes to rename item 87 to ''Deferred Amount'' to capture all deferred amounts, not just those related to the loan principal.

Finally, the Board proposes to revise the reporting options to the ''Modification Type'' and ''Workout Type Completed'' items (Schedule A, items 74 and 77, respectively; Schedule B, items 77 and 61, respectively) to add flexibility to enable these items to apply to a broader set of occurrences, such as the COVID event. These revisions would enable the Board to better monitor loss mitigation loans.

Other Revisions

Firms currently flag whether portfolio loans are held-for-investment (HFI) and measured at fair value under the FVO or are held-for-sale (HFS) in item 130 (''HFI FVO/HFS Flag'') of Schedule A. However, the actual fair-value amount is not reported on Schedule A. Firms are required to report the aggregate fair-value amounts of HFS loans and HFI loans measured under the FVO on FR Y–14Q, Schedule J (Retail FVO/HFS). For data reconciliation across the FR Y–14M and FR Y–14Q, as well as for monitoring purposes, the Board is proposing to add a new field to Schedule A to capture the fair-value amount of HFS loans and HFI loans measured under the FVO.

Additionally, on both Schedule A and Schedule B, there is an item that captures the adjustable-rate mortgage (ARM) index (Schedule A, item 32; Schedule B, item 29). This item does not include options for the Bloomberg Short-Term Bank Yield (BSBY) rate. The Board proposes to revise this item to include several BSBY options, to allow

firms to identify loans using this index rate.

The Board also proposes to remove several items from Schedule A, as they are no longer needed, assuming that the aforementioned revisions to Schedule A are implemented (items proposed for removal would be redundant). Specifically, the Board proposes to remove the following items:

- ''Capitalization'' (item 81);
- ''Duration of Modification'' (item 83);
- ''Interest Rate Reduced'' (item 98);
- ''Term Extended'' (item 100);
- ''P&I Amount Before Modification'' (item 101);
- ''P&I Amount After Modification'' (item 102);
- ''Remaining Term Before Modification'' (item 105); and
- ''Remaining Term After Modification'' (item 106).

Firms are required to report the cohort default rate (CDR) of student loans on FR Y–14Q, Schedule A.10 (Student Loan). There are several CDR buckets, one of which requires reporting in cases in which the CDR is greater than 10 percent (item 16). However, the instructions don't specify how to report cases when the CDR is equal to 10 percent. For completeness, the Board proposes to rename and revise item 16 to clarify that firms must also include in this item balances for which the CDR equals 10 percent.

Balances

Firms are required to report quarter-end balances of bank cards and charge cards on FR Y–14Q, Schedule M.1 (Quarter-end balances) in items 3.a and 3.b, respectively. The instructions do not define bank or charge cards, but in general, bank cards and charge cards differ in two key ways. First, bank cards allow holders to spend up to their credit limits during each billing cycle, while charge cards typically have no preset spending limits. Second, bank cards allow holders to pay outstanding balances over time, while charge cards must be fully paid off each billing cycle. There are some products that have features of both bank and charge cards, in that only a portion of the outstanding balance can be rolled over to the next billing cycle. Products with features of both bank and charge cards have caused inconsistent reporting across firms. To remove ambiguity, the Board proposes to better clarify which products must be reported as charge cards in the instructions.

Firms are required to report quarter-end balances of small/medium enterprise (SME) cards in item 2.c (SME cards and corporate cards) on Schedule M.1. The instructions define SME cards as ''credit card accounts where the loan is underwritten with the sole proprietor or primary business as an applicant.'' The instructions also refer to several FR Y–9C items where SME cards and corporate cards are reported. Firms are required to report the applicable balances of SME cards and corporate cards in item 2.c that are reported in the referenced FR Y–9C items. The item 2.c instructions do not reference FR Y–9C, Schedule HC–C, item 9.a (Loans to nondepository financial institutions). Upon review, the Board has determined that certain card balances reported in Schedule HC–C, item 9.a could be included in Schedule M.1, item 2.c. Therefore, the Board proposes to revise the instructions for Schedule M.1, item 2.c to reference Schedule HC–C, item 9.a.

Legal authorization and confidentiality: The Board has the authority to require BHCs to file the FR Y–14 reports pursuant to sections 5(b) and 5(c) of the Bank Holding Company Act (BHC Act) [17] and section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as amended by sections 401(a) and (e) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).[18] Section 5(b) of the BHC Act authorizes the Board to issue regulations and orders relating to capital requirements for bank holding companies. Section 5(c) of the BHC Act authorizes the Board to require a BHC and any subsidiary of such company to submit reports to keep the Board informed of its financial condition, systems for controlling financial and operating risks, transactions with depository institution subsidiaries of the BHC, and compliance with law. Section 165(i)(1) of the Dodd-Frank Act, as amended by the EGRRCPA, requires the Board to conduct supervisory stress tests of certain companies.[19] Further, section 165(i)(2) of the Dodd-Frank Act, as amended by the EGRRCPA, requires the Board to issue regulations requiring certain companies to conduct company-run stress tests.[20]

The Board has authority to require SLHCs file the FR Y–14 reports pursuant to section 10(b) of the Home Owners' Loan Act (HOLA) as amended by section 369(8) and 604(h)(2) of the Dodd-Frank Act.[21] Section 10(b) of HOLA, as amended, authorizes the Board to require savings and loan holding companies to file ''such reports as may be required by the Board'' containing ''such information concerning the operations of such savings and loan holding company . . . as the Board may require.''

The Board has authority to require IHCs file the FR Y–14 reports pursuant to section 5(c) of the BHC Act [22] and sections 102(a)(1) and 165 of the Dodd-Frank Act.[23] In addition, section 401(g) of EGRRCPA [24] provides that the Board has the authority to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of $100 billion or more, and clarifies that nothing in section 401 ''shall be construed to affect the legal effect of the final rule of the Board . . . entitled 'Enhanced Prudential Standard for [BHCs] and Foreign Banking Organizations' (79 FR 17240 (March 27, 2014)), as applied to foreign banking organizations with total consolidated assets equal to or greater than $100 million.'' [25]

The FR Y–14 reports are mandatory.

The information reported in the FR Y–14 reports is collected as part of the Board's supervisory process, and therefore, such information is afforded confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA) which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory

[17] 12 U.S.C. 1844(b) and 1844(c).

[18] 12 U.S.C. 5365(i).

[19] See 12 U.S.C. 5365(i)(1). Annual supervisory stress tests are required for bank holding companies with $250 billion or more in total consolidated assets. ''Periodic'' supervisory stress tests are required for bank holding companies with $100 billion or more, but less than $250 billion, in total consolidated assets. 12 U.S.C. 5365 note.

[20] See 12 U.S.C. 5365(i)(2). Bank holding companies with $250 billion or more in total consolidated assets and financial companies with more than $250 billion in total consolidated assets must conduct ''periodic'' stress tests.

[21] 12 U.S.C. 1467a(b).

[22] 12 U.S.C 1844(c).

[23] 12 U.S.C. 5311(a)(1) and 5365. Section 102(a)(1) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(1), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act of 1978, 12 U.S.C. 3106(a). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, 12 U.S.C. 5365(b)(1)(B)(iv), certain foreign banking organizations subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides authority to require U.S. IHCs to report the information contained in the FR Y–14 reports.

[24] 12 U.S.C. 5365 note.

[25] The Board's Final Rule referenced in section 401(g) of EGRRCPA specifically stated that the Board would require IHCs to file the FR Y–14 reports. *See* 79 FR 17240, 17304 (March 27, 2014).

process.[26] In addition, confidential commercial or financial information, which a submitter both customarily and actually treats as private, may be exempt from disclosure under exemption 4 of the FOIA.[27] [28]

Board of Governors of the Federal Reserve System, February 23, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–04194 Filed 2–28–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day–22–0048]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Agency for Toxic Substances and Disease Registry (ATSDR) has submitted the information collection request titled ''ATSDR Exposure Investigations (EIs)'' to the Office of Management and Budget (OMB) for review and approval. ATSDR previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on August 13, 2021 to obtain comments from the public and affected agencies. ATSDR did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

ATSDR will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

ATSDR Exposure Investigations (EIs) (OMB Control No. 0923–0048, Exp. 04/30/2022)—Extension—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is requesting a three-year extension of ''ATSDR Exposure Investigations (EIs)'' (OMB Control No. 0923–0048, Exp. 04/30/2022). This generic clearance allows the agency to conduct EIs, through methods developed by ATSDR. After a chemical release or suspected release into the environment, EIs are usually requested by officials of a state health agency, county health departments, the Environmental Protection Agency (EPA), the general public, and ATSDR staff. EI results are used by public health professionals, environmental risk managers, and other decision makers to determine if current conditions warrant intervention strategies to minimize or eliminate human exposure.

During the past three years, no EIs were completed. Instead, the ATSDR Office of Community Health and Hazard Assessment (OCHHA), using EI methods, completed eight Per- or Polyfluoroalkyl Substances Exposure Assessments (PFAS EAs) (OMB Control No. 0923–0059, Exp. 06/30/2022) at communities near U.S. military installations that used Aqueous Film Forming Foam (AFFF). The PFAS from the AFFF entered groundwater and impacted the drinking water in the nearby communities. In 2022, however, ATSDR is conducting a follow-up EI under this generic clearance ICR to supplement the PFAS EAs. This EI generic information collection (GenIC) will evaluate additional non-drinking water sources of environmental PFAS exposure in two of the former EA communities.

The general EI methods are further described below. All of ATSDR's targeted biological assessments (*e.g.,* urine, blood) and some of the environmental investigations (*e.g.,* air, water, soil, or food sampling) involve participants to determine whether they are or have been exposed to unusual levels of pollutants at specific locations (*e.g.,* where people live, spend leisure time, or anywhere they might come into contact with contaminants under investigation).

Questionnaires, appropriate to the specific contaminant, are generally needed in about half of the EIs (at most, approximately 12 per year) to assist in interpreting the biological or environmental sampling results. ATSDR collects contact information (*e.g.,* name, address, phone number) to provide the participant with their individual results. ATSDR also collects information on other possible confounding sources of chemical(s) exposure such as medicines taken, foods eaten, hobbies, jobs, etc. In addition, ATSDR asks questions on recreational or occupational activities that could increase a participant's exposure potential. That information represents an individual's exposure history.

The number of questions can vary depending on the number of chemicals being investigated, the route of exposure (*e.g.,* breathing, eating, touching), and number of other sources of the chemical(s) (*e.g.,* products used, jobs). We use approximately 12–20 questions about the pertinent environmental exposures per investigation. Typically, the number of participants in an individual EI ranges from 10 to 100.

Participation is completely voluntary, and there are no costs to participants

[26] 5 U.S.C. 552(b)(8).

[27] 5 U.S.C. 552(b)(4).

[28] Note that the Board may disclose a summary of the results of supervisory stress testing pursuant to 12 CFR 225.8(h)(5)(iii) and publishes a summary of the results of stress testing pursuant to 12 CFR 252.46(b) and 12 CFR 238.134, which includes aggregate data. In addition, under the Board's regulations, covered companies must also publicly disclose a summary of the results of stress testing. *See* 12 CFR 252.58; 12 CFR 238.146. The public disclosure requirement contained in 12 CFR 252.58 for covered BHCs and covered IHCs is separately accounted for by the Board in the Paperwork Reduction Act clearance for FR YY (OMB No. 7100–0350) and the public disclosure requirement for covered SLHCs is separately accounted for in by the Board in the Paperwork Reduction Act clearance for FR LL (OMB No. 7100–0380).

other than their time. Based on a maximum of 12 EIs per year and 100 participants each, the total estimated annualized burden hours are 600.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Exposure Investigation Participants	Chemical Exposure Questions	1,200	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04189 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–0010; Docket No. CDC–2022–0030]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Birth Defects Study To Evaluate Pregnancy exposureS (BD–STEPS). Data from BD–STEPS will play an important part in the decision-making process that determines federal research agendas, birth defect prevention activities, and the direction of funding programs such as cooperative agreements.

DATES: CDC must receive written comments on or before May 2, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0030 by either of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Birth Defects Study to Evaluate Pregnancy exposureS (BD–STEPS) (OMB Control No. 0920–0010, Exp. 2/28/2023)—Extension—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Birth defects are associated with substantial morbidity and mortality in the United States. About one in every 33 babies is born with a birth defect. Birth defects contributed to more than one million hospital stays in the U.S. in 2013, resulting in $22.9 billion in hospital costs. Birth defects are the leading cause of infant mortality and the fifth leading cause of loss of potential years of life before age 65. One in five infant deaths is due to birth defects.

For most birth defects, the causes are not known, making prevention efforts challenging to develop. However, to date, primary preventive measures are available for only a few birth defects. For example, vaccination programs have reduced the incidence of congenital rubella syndrome, Rh hemolytic disease of the newborn can be prevented by appropriate medical practices, and genetic counseling can provide parents with information about the increased risk of Down syndrome associated with advanced maternal age. Perhaps most importantly, folic acid intake before and during pregnancy can prevent many cases of fatal or permanently disabling neural tube defects such as anencephaly and spina bifida.

This continued burden justifies reasonable attempts to reduce the

prevalence of birth defects. To help reduce birth defects among U.S. babies, in 1996 Congress directed the CDC to establish Centers of Excellence for Birth Defects Research and Prevention. The mandate was formalized with passage of the Birth Defects Prevention Act of 1998. The Act amended Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) and authorized CDC to (1) collect, analyze, and make available data on birth defects; (2) operate regional centers that will conduct applied epidemiological research for the prevention of birth defects; and (3) provide the public with information on preventing birth defects.

In response to this mandate, the Division of Birth Defects and Infant Disorders (DBDID) obtained OMB clearance for data collection that is carried out by the Centers for Birth Defects Research and Prevention (CBDRP). The CBDRP's first research effort was the National Birth Defects Prevention Study (NBDPS), which began data collection in 1997 and ended in 2013. The CBDRPs transitioned from NBDPS to the Birth Defects Study To Evaluate Pregnancy exposures (BD–STEPS), which began data collection in 2014. One of the main activities for each Center is to conduct BD–STEPS in their state.

BD–STEPS is made up of a number of information collection activities. The interview is estimated to take approximately 55 minutes and is titled ''Birth Defects Prevention Study: Computer Assisted Telephone Interview.'' For the five Centers not participating in the stillbirth component of the study, a maximum of 370 interviews are planned per year per center, 270 cases and 100 controls; for the two Centers participating in additional stillbirth interviews, 590 interviews are planned per Center, 270 cases with birth defects, 100 controls, and 220 stillbirths without birth defects. With seven Centers and a maximum of 3,030 interviews, the maximum interview burden for all Centers combined would be 2,778 hours per year. The 55-minute burden includes the time for the telephone consent script which is reviewed with the mother at the beginning of the call to collect the information via the computer assisted telephone interview (CATI).

Five of the seven BD–STEPS Centers request consent for retrieval of leftover newborn bloodspots. If a maximum of 2,590 interviews would be expected for seven Centers (not including interviews of stillbirths without birth defects), a maximum of 1,850 would be expected for five Centers requesting consent for retrieval of leftover newborn bloodspots (excluding stillbirths, for which newborn bloodspots are not available). A maximum of 15 minutes would be expected for the participant to read the bloodspot retrieval consent request and sign the consent form. The anticipated maximum burden for bloodspot consent would be 463 hours annually.

With a maximum of 2,590 interviews planned annually (not including interviews of stillbirths without birth defects since they are not eligible for the online questionnaire), and approximately one-third of the respondents eligible for the online questionnaire (selected based on reporting occupations queried in the questionnaire), a maximum of 830 women would receive the online questionnaire. Completion of the online questionnaire is estimated to take 20 minutes including reading introductory communication. The anticipated maximum burden for the online questionnaire is 277 hours annually.

CDC requests the release of reportable infectious diseases information from all women who complete the CATI except for women who experienced a stillbirth without a birth defect. A maximum of 2,590 women would receive the infectious disease information request. Based on experience with consent forms, we expect the review, signing and mailing of the release of reportable infectious diseases information to take a maximum of 15 minutes for participants. The anticipated maximum burden for the reportable infectious diseases information is 648 hours annually.

In the two Centers participating in the supplemental interview, mothers of infants with or without birth defects that are stillborn and controls are asked to participate in a supplemental telephone interview. The 25-minute supplemental interview includes the time for informed consent. Based on a maximum of 640 women to be interviewed with the supplemental questionnaire, the maximum burden time would be 267 hours annually.

Although participation rates may vary, the total estimates of annual burden hours for all activities, all individuals, and all Centers is 4,433 hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Mother's Interview	Telephone Consent Script/BD–STEPS Computer Assisted Telephone Interview.	3,030	1	55/60	2,778
Mother's Consent for Bloodspot Retrieval.	Consent for bloodspot retrieval	1,850	1	15/60	463
Mother's Online Occupational Questionnaire.	Online Occupational Questionnaire	830	1	20/60	277
Mothers Infectious Disease Release Review.	Infectious Disease Request Form	2,590	1	15/60	648
Mothers of AR/MA Stillbirths and Controls (Supplemental Telephone Interview).	Telephone Consent and Supplemental Interview.	640	1	25/60	267
Total					4,433

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04191 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—SIP22–005, Building Resilience Against Climate Effects (BRACE): Enhancing Practical Guidance to Support Climate and Health Adaptation Planning.

Date: May 4, 2022.

Time: 11:00 a.m.–6:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

FOR FURTHER INFORMATION CONTACT: Jaya Raman, Ph.D., Scientific Review Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, Mailstop S107–B, Atlanta, Georgia 30341, Telephone: (770) 488–6511, email: *JRaman@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04262 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)-RFA–CK-22–001, Investigation of Monkeypox and Other Zoonotic Diseases in the Democratic Republic of the Congo (DRC); RFA–CK–22–002, Technological Advancement of Global Rabies Surveillance and Control; and RFA–CK–22–004, Optimization and Standardization of Methods to Suppress Ixodes scapularis and Disrupt Enzootic Pathogen Transmission in Settings Posing an Elevated Risk to Humans.

Date: April 28, 2022.

Time: 10:00 a.m.–5:00 p.m. (EDT).

Place: Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Blvd., Atlanta, GA 30329.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329, (404) 718–8833, *ganderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04261 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 20–297, NIOSH Centers of Excellence for Total Worker Health (TWH).

Date: April 21, 2022.

Time: 1:00 p.m.–4:00 p.m., EDT.

Place: Video-Assisted Meeting.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Dan Hartley, Ed.D., Scientific Review Officer, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, West

Virginia 26505, Telephone: (304) 285–5812; Email: *DHartley@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04260 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-22–22CX; Docket No. CDC–2022–0031]

Proposed Data Collections Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), in the Department of Health and Human Services (HHS), as part of its continuing effort to reduce public 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. This notice invites comment on a proposed information collection project titled Preferences for Longer-Acting Preexposure Prophylaxis (LA-PrEP) Methods Among Persons in U.S. Populations at Highest Need: A Discrete Choice Experiment. The proposed project is designed to understand preferences for LA-PrEP products for HIV prevention among potential users and providers.

DATES: CDC must receive written comments on or before May 2, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0031, by either of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Preferences for Longer-Acting Preexposure Prophylaxis (LA-PrEP) Methods Among Persons in U.S. Populations at Highest Need: A Discrete Choice Experiment—New—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The 2022–2025 National HIV/AIDS Strategy includes a goal of increasing pre-exposure prophylaxis (PrEP) coverage to 50 percent among persons with indications, from a 2017 baseline of 13.2 percent. Despite successes in development and scale up of daily oral PrEP as a biomedical HIV prevention product, studies consistently show obstacles to its uptake and continuation. The Centers for Disease Control and Prevention (CDC) and its partners must engage in early planning for the implementation of longer-acting PrEP (LA-PrEP) agents to help achieve the U.S. Ending the HIV Epidemic (EHE) goal of reducing incident HIV infections by 90 percent by 2030. Understanding providers' and priority populations' preferences for different LA-PrEP agents, and perceived advantages and disadvantages of each product, will be critical to estimating future uptake and use of the various products that are recently or soon likely to become available for prescription.

The goal of this study is to understand preferences for LA-PrEP products for HIV prevention among potential users and providers, including product characteristics and other service delivery factors that may facilitate or hinder future uptake of these products. In cooperation with partners, CDC will conduct a discrete choice experiment (DCE) among providers and potential users of LA-PrEP products to elicit their preferences for characteristics of LA-PrEP and delivery programs to maximize uptake of LA-PrEP among people in need of HIV prevention methods. Results from this experiment will be used to identify factors key to adoption and implementation of each product and increase implementation efficiency by identifying strategies to support decision making and address potential challenges.

The study design is a cross-sectional, online survey comprised of a DCE and additional questions to directly elicit participant preferences and gather data on socioeconomic, behavioral, and attitudinal factors. DCE methods are based on the principle that products or

services are evaluated through their multiple features or 'attributes,' and that an individual's choice of a product or service is a function of the utility of each attribute option or 'level.' Attributes and their corresponding levels are chosen to represent the features of medications, devices, and healthcare services that are relevant to a healthcare decision.

The proposed information collection will include two separate DCE surveys: One for priority populations and one for clinicians. The survey uses an experimental design to combine levels from each attribute into hypothetical product profiles and to pair profiles into choice tasks. The experimental design will be split into several blocks or versions. Each equally sized block will have 8–12 questions, and questions will not be repeated across blocks. Participants will be randomly assigned to a block and will see only one block when completing the survey instrument.

The study's target population includes persons ages 18 and older who either (1) prescribe PrEP or (2) are in the following priority population groups selected because they have the highest rates of HIV acquisition and are in need for HIV prevention services:

- Gay, bisexual, and other men who have sex with men subdivided by race/ethnicity:
  - Black/African American,
  - Hispanic/Latino, or
  - White;
- Black/African American heterosexual persons subdivided by biological sex:
  - Men or
  - Women;
- Transgender women; and
- Persons who inject drugs.

To be eligible for the study, potential participants in each of the priority population groups must be 18 years of age or older, living without HIV, and meet the U.S. Public Health Service (USPHS) indications for offering PrEP as described in the 2021 USPHS Clinical Practice Guidelines.

The study sample will be recruited from cities with high numbers of annual HIV diagnoses within the 57 priority jurisdictions identified as part of the EHE initiative. Participants will be randomly assigned to a block when they are sent their unique DCE survey link and will only complete the set of choice tasks in that block. Throughout the study, we will closely monitor recruitment and data collection to ensure that screening criteria are being met, key demographic groups are adequately represented, and survey completion rates are acceptable.

Participation is voluntary. For this study, CDC intends to screen approximately 9,200 participants and enroll 1,840 participants. CDC estimates that approximately 15 percent of enrolled participants will be removed from the analysis due to fraud or incomplete data, resulting in a final analysis sample size of 1,600 participants. At 25 minutes per survey and 10 minutes per combined screening and consent, CDC requests approval for an estimated 2,341 annualized burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

(Type of) respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Black/African American, Hispanic/Latino, or White men who are gay, bisexual or have sex with men, ages 18+ in the United States.	Screening & Consent	3,450	1	10/60	587
	Survey	690	1	25/60	290
Black/African American Heterosexual Cisgender Men or Women, ages 18+, in the United States.	Screening & Consent	2,300	1	10/60	391
	Survey	460	1	25/60	194
Transgender Women, ages 18+, in the United States.	Screening & Consent	1,150	1	10/60	196
	Survey	230	1	25/60	97
Persons who inject drugs, ages 18+, in the United States.	Screening & Consent	1,150	1	10/60	196
	Survey	230	1	25/60	97
Clinical providers who prescribe PrEP, in the United States.	Screening & Consent	1,150	1	10/60	196
	Survey	230	1	25/60	97
Total					2,341

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04190 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–1286; Docket No. CDC–2022–0029]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled, Annual Reporting of the Rape Prevention and Education (RPE) Program. The RPE Program is the principal federally funded program focused on sexual violence (SV) prevention. This data collection allows

CDC to collect information about the implementation and outcomes of CE19–1902 cooperative agreement.

DATES: CDC must receive written comments on or before May 2, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0029 by either of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Annual Reporting of the Rape Prevention and Education (RPE) Program (OMB Control No. 0920–1286, Exp. 3/31/2023)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a request for a Revision of the currently approved Annual Reporting of the Rape prevention and Education (RPE) Program collection (OMB Control No. 0920–1286, Exp. 03/31/2023). This Revision is being requested to continue to collect information related to implementation and outcomes annually from 53 recipients or their designated delegates funded through the funding opportunity, CE19–1902. Sexual violence (SV) is a major public health problem. One in three women and one in four men experienced SV involving physical contact during their lifetimes. Nearly one in five women and one in 38 men have experienced completed or attempted rape. SV starts early: One in three female and one in four male rape victims experienced it for the first time between 11–17 years old. CDC's Division of Violence Prevention (DVP) provides national leadership in prevention of SV perpetration and victimization before it begins (*i.e.,* primary prevention). DVP administers the RPE Program, which provides funding to health departments in all 50 states, the District of Columbia (DC), Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of Northern Mariana Islands.

The RPE Program is the principal federally funded program focused on SV primary prevention. Collecting information about the implementation and outcomes of CE19–1902 cooperative agreement through the online data system (DVP Partners Portal) is crucial to informing SV prevention nationally; enhancing accountability of the use of federal funds; providing timely program reports and responses to information requests, such as Congressional requests mandated by the authorizing legislation; improving real-time communications between CDC and RPE recipients; and strengthening CDC's capacity to provide responsive data-driven technical assistance and to monitor and evaluate recipients' progress and performance.

Information will be collected annually from recipients through the DVP Partners Portal. The DVP Partners Portal is organized by forms, which are further organized by sections and sub-sections. Recipients and program staff are able to review information reported in previous years within the DVP Partners Portal per their authenticated access. In addition, information from previous reports will be carried over and pre-populated for the next annual reporting as appropriate. Thus, with DVP Partners Portal most of the burden is required during the initial population of information (Year 1), Recipients will only need to enter changes, provide progress information, and add new information after Year 1.

CDC will use the information to be collected for the following:

- Enhance accountability of the use of federal funds
- Provide timely program reports and responses to information request
- Improve real-time communications between CDC and recipients
- Strengthen CDC's capacity to provide responsive and data-driven TA
- Strengthen CDC's capacity to monitor and evaluate recipients' progress and performance towards activities required as part of the cooperative agreement
- Allow both CDC and recipients to track their own state activities and outcomes, and ensure alignment between their state and local activities
- Generate a variety of routine and customizable reports specifically for each recipient and in aggregate nationally for CDC stakeholders

The total estimated annual burden for this collection is 424 hours. CDC is requesting a one-year approval. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
RPE-funded Health Departments (State, DC, and Territories) and their Designated Delegates.	Annual Reporting—Initial Population	53	1	4	212
	Annual Reporting—Subsequent Reporting	53	2	2	212
Total					424

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–04192 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CK–22–006, Clinical and Applied Research Strategies for the Prevention and Control of Fungal Diseases; Cancellation of Meeting

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CK–22–006, Clinical and Applied Research Strategies for the Prevention and Control of Fungal Diseases; April 14, 2022, 10:00 a.m.–5:00 p.m., EDT. The teleconference was published in the **Federal Register** on February 14, 2022, Volume 87, Number 30, page 8251.

This meeting is being canceled in its entirety.

FOR FURTHER INFORMATION CONTACT: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329, (404) 718–8833, *ganderson@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04259 Filed 2–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3427–N]

Medicare Program; Request for Nominations for Members for the Medicare Evidence Development & Coverage Advisory Committee

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: This notice announces the request for nominations for membership on the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC). Among other duties, the MEDCAC provides advice and guidance to the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning the adequacy of scientific evidence available to CMS in making coverage determinations under the Medicare program. The MEDCAC's fundamental purpose is to support the principles of an evidence-based determination process for Medicare's coverage policies. MEDCAC panels provide advice to CMS on the strength of the evidence available for specific medical treatments and technologies through a public, participatory, and accountable process.

DATES: Nominations must be received by Monday, March 28, 2022.

ADDRESSES: You may mail nominations for membership to the following address: Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Attention: Ruth McKesson, 7500 Security Boulevard, Mail Stop: S3–02–01, Baltimore, MD 21244 or send via email to *MEDCACnomination@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Ruth McKesson, MEDCAC Coordinator, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Coverage and Analysis Group, S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244 or contact Ms. McKesson by phone (410) 786–8611 or via email at *Ruth.McKesson@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary signed the initial charter for the Medicare Coverage Advisory Committee (MCAC) on November 24, 1998. A notice in the **Federal Register** (63 FR 68780) announcing establishment of the MCAC was published on December 14, 1998. The MCAC name was updated to more accurately reflect the purpose of the committee and on January 26, 2007, the Secretary published a notice in the **Federal Register** (72 FR 3853), announcing that the Committee's name changed to the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC). The current Secretary's Charter for the MEDCAC is available on the CMS website at: *https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/Downloads/medcaccharter.pdf* or you may obtain a copy of the charter by submitting a request to the contact listed in the **FOR FURTHER INFORMATION** section of this notice.

The MEDCAC is governed by provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), which sets forth standards for the formulation and use of advisory committees, and is authorized by section 222 of the Public Health Service Act as amended (42 U.S.C. 217A).

We are requesting nominations for candidates to serve on the MEDCAC. Nominees are selected based upon their individual qualifications and not solely as representatives of professional associations or societies. We wish to

ensure adequate representation of those enrolled in the Medicare program including but not limited to, racial and ethnic groups, individuals with disabilities, and from across the gender spectrum. Therefore, we encourage nominations of qualified candidates who can represent these lived experiences.

The MEDCAC consists of a pool of 100 appointed members including: 90 at-large standing members (10 of whom are patient advocates), and 10 representatives of industry interests. Members generally are recognized authorities in clinical medicine including subspecialties, administrative medicine, public health, biological and physical sciences, epidemiology and biostatistics, clinical trial design, health care data management and analysis, patient advocacy, health care economics, health disparities, medical ethics, those with an understanding of sociodemographic bias and resulting limitations of scientific evidence, or other relevant professions.

The MEDCAC works from an agenda provided by the Designated Federal Official. The MEDCAC reviews and evaluates medical literature and technology assessments, and hears public testimony on the evidence available to address the impact of medical items and services on health outcomes of Medicare beneficiaries. The MEDCAC may also advise the Centers for Medicare & Medicaid Services (CMS) as part of Medicare's ''coverage with evidence development'' initiative.

II. Provisions of the Notice

As of June 2022, there will be 23 membership terms expiring. Of the 23 memberships expiring, 3 are patient advocates and the remaining 20 membership openings are for the at-large standing MEDCAC membership.

All nominations must be accompanied by curricula vitae. Nomination packages should be sent to Ruth McKesson at the address listed in the **ADDRESSES** section of this notice. Nominees are selected based upon their individual qualifications. Nominees for membership must have expertise and experience in one or more of the following fields:

- Clinical medicine including subspecialties
- Administrative medicine
- Public health
- Health disparities
- Biological and physical sciences
- Epidemiology and biostatistics
- Clinical trial design
- Health care data management and analysis
- Patient advocacy
- Health care economics
- Medical ethics
- Other relevant professions

We are looking particularly for experts in a number of fields. These include health disparities, cancer screening, genetic testing, clinical epidemiology, psychopharmacology, screening and diagnostic testing analysis, and vascular surgery. We also need experts in biostatistics in clinical settings, dementia treatment, observational research design, stroke epidemiology, and women's health.

The nomination letter must include a statement that the nominee is willing to serve as a member of the MEDCAC and appears to have no conflict of interest that would preclude membership. We are requesting that all curricula vitae include the following:

- Title and current position
- Professional affiliation
- Home and business address
- Telephone
- Email address
- List of areas of expertise

In the nomination letter, we are requesting that nominees specify whether they are applying for a patient advocate position, for an at-large standing position, or as an industry representative. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of financial conflict of interest. Department policy prohibits multiple committee memberships. A federal advisory committee member may not serve on more than one committee within an agency at the same time.

Members may be invited to serve for overlapping 2-year terms. A member may continue to serve after the expiration of the member's term until a successor is named. Any interested person may nominate one or more qualified persons. Self-nominations are also accepted. Individuals interested in the representative positions are encouraged to include a letter of support from the organization or interest group they would represent.

III. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Chief Medical Officer and Director of the Center for Clinical Standards and Quality for the Centers for Medicare & Medicaid Services (CMS), Lee A. Fleisher, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Evell J. Barco Holland,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–04382 Filed 2–28–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Child Care and Development Fund Plan for Tribes for FY 2023–2025 (ACF–118A) (OMB #0970–0198)

AGENCY: Office of Child Care; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the form ACF–118A: Child Care and Development Fund Plan for Tribes (OMB #0970–0198, expiration 06/30/2022) for FFY 2023–2025. There are minor changes requested to the form to improve formatting and clarify and streamline questions.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for Tribes is required from each CCDF Lead Agency in accordance with section 658E of the Child Care and Development Block Grant Act of 1990

(CCDBG Act), as amended, CCDBG Act of 2014 (Pub. L. 113–186), and 42 U.S.C. 9858. The Plan, submitted on the ACF–118A, is required triennially, and remains in effect for 3 years. The Plan provides ACF and the public with a description of and assurance about the tribes' child care programs. These Plans are the applications for CCDF funds.

The Office of Child Care has given thoughtful consideration of any comments received on the Plan Preprint document and revised the document in line with comments. Additionally, based on responses from Tribes and the current context of managing the COVID–19 Pandemic, OCC will postpone modernizing the allocation size thresholds. Requirements for this Tribal CCDF Plan submission will continue to be based on FY 2016 allocations. Consistent with the statute and regulations, ACF requests revision of the ACF–118A with minor modifications. This 30-day second Public Comment Period provides an opportunity for the public to submit comments to OMB.

Respondents: Tribal CCDF lead agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
ACF–118A Part I (for all tribes)	265	1	120	31,800	10,600
ACF–118A Part II (for medium and large tribes only)	106	1	24	2,544	848

Estimated Total Annual Burden Hours: 11,448.

Authority: Pub. L. 113–186) and 42 U.S.C. 9858c.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–04199 Filed 2–28–22; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Environmental Information and Documentation, OMB No. 0915–0324—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than March 31, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information collection request title for reference.

Information Collection Request Title: Environmental Information and Documentation (EID) OMB No. 0915–0324—Extension.

Abstract: HRSA is requesting extension of the approval for the EID checklist which consists of information that the agency is required to obtain to comply with the National Environmental Policy Act of 1969 (NEPA). NEPA establishes the federal government's national policy for protection of the environment. HRSA has developed the EID for applicants of funding that would potentially impact the environment and to ensure that their decision-making processes are consistent with NEPA.

A 60-day notice published in the **Federal Register**, 86 FR 69655 (December, 8, 2021). There were no public comments.

Need and Proposed Use of the Information: Applicants must provide information and assurance of compliance with NEPA on the EID checklist. This information is reviewed in the Pre-Award stage (and/or prior to the implementation of the project). The information is reviewed in the Post-Award stage for project changes and the information is reviewed before the implementation of the project changes.

Likely Respondents: HRSA applicants applying for federal loan guarantees, federal construction grants, and cooperative agreements.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NEPA EID Checklist	1,500	1	1,500	1	1,500
Total	1,500		1,500		1,500

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–04267 Filed 2–28–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development and Commercialization of Chimeric Antigen Receptor T-Cell Therapies (CAR–T) That are Specific to CD22 and Other B-Cell Antigens for the Treatment of B-Cell Malignancies

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this Notice to Syncopation Life Sciences Inc., (''Syncopation''), located in Palo Alto, California.

DATES: Only written comments and/or complete applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before March 16, 2022 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Jim Knabb, Senior Technology Transfer Manager, at Telephone: (240)–276–7856; or at email: *jim.knabb@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

E–080–2012–0: Human Monoclonal Antibodies Specific for CD22

1. US Provisional Patent Application 61/042,329, filed April 4, 2008 (E–080–2008–0–US–01);
2. International Patent Application PCT/US2009/039,080, Filed April 1, 2009 (E–080–2008/0–PCT–02);
3. US Patent Application: 12/934,214, filed September 23, 2010 (E–080–2008–0–US–03);
4. US Patent Application 13/959,061, filed August 5, 2015 (E–080–2008–0–US–04);
5. US Patent Application 15/012,023, filed February 1, 2016 (E–080–2008–0–US–05);
6. US Patent Application 15/424,238, filed February 3, 2017 (E–080–2008–0–US–06).

E–291–2012–0: M971 Chimeric Antigen Receptors

1. US Provisional Patent Application 61/717,960, filed October 24, 2012 (E–291–2012–0–US–01);
2. International Patent Application PCT/US2013/060332, filed September 18, 2013 (E–291–2012–0–PCT–02);
3. Australia Application No: 2019235926, filed September 2, 2020 (E–291–2012–0–AU–03);
4. Brazil Patent Application BR112015009003–6, filed April 22, 2015 (E–291–2012–0–BR–04);
5. Canada Application No: 2889055, filed September 18, 2013 (E–291–2012–0–CA–05);
6. China Application No: 201380061387.5, filed May 25, 2015 (E–291–2012–0–CN–06);
7. European Patent Application No: 13773468.7, filed September 18, 2013 (E–291–2012–0–EP–07);
8. India Patent Application No: 2344/CHENP/2015, filed September 18, 2013 (E–291–2012–0–IN–08);
9. Japan Application No: 539602/2015, filed April 24, 2015 (E–291–2012–0–JP–09);
10. Russia Patent Application: 2015117237, filed May 7, 2015 (E–291–2012–0–RU–10);
11. US Patent Application: 14/437,889, filed April 23, 2015 (E–291–2012–0–US–11);
12. Hong Kong Patent Application: 16101891.0, filed February 19, 2016 (E–291–2012–0–HK–12);
13. Russia Patent Application: 2018116582, filed May 4, 2018 (E–291–2012–0–RU–13);
14. Japan Patent Application: 2018–088908, filed May 2, 2018, (E–291–2012–0–JP–14);
15. Australia Patent Application: 2018204257, filed June 14, 2018 (E–291–2012–0–AU–16);
16. US Patent Application: 16/107,271, filed August 21, 2018 (E–291–2012–0–US–17);
17. Germany Patent Application: 13773468.7, filed April 22, 2015 (E–291–2012–0–DE–18);
18. Spain Patent Application: 13773468.7, filed April 22, 2015 (E–291–2012–0–ES–19);
19. France Patent Application: 13773468.7, filed April 22, 2015 (E–291–2012–0–FR–20);
20. Great Britain Patent Application: 13773468.7, filed April 22, 2015 (E–291–2012–0–GB–21);
21. Italy Patent Application: 13773468.7, filed April 22, 2015 (E–291–2012–0–IT–22);
22. China Patent Application: 201910500128.7, filed June 11, 2019 (E–291–2012–0–CN–23);
23. US Patent Application: 16/869,792, filed May 8, 2020 (E–291–2012–0–US–24).

E–017–2017–0: CD19/CD22 Bicistronic CAR Targeting Human B-Cell Malignancies

1. US Provisional Patent Application No.: 62/135,442, filed May 15, 2017 (E–017–2017–0–US–01);
2. International Patent Application PCT/US2018/032,809, filed May 15, 2018 (E–017–2017–0–PCT–02);
3. Australia Patent Application No.: 2018269194, filed October 28, 2019 (E–017–2017–0–AU–03);
4. Canada Patent Application No: 3062433, filed May 15, 2018 (E–017–2017–0–CA–04);

5. China Patent Application No.: 201880032676.5, filed *Date:* May 15, 2018 (E–017–2017–0–CN–05);

6. European Patent Application No.: 18733012.1, filed May 15, 2018 (E–017–2017–0–EP–06);

7. Japan Patent Application No.: 2019–563082, filed November 13, 2019 (E–017–2017–0–JP–07);

8. Korea Patent Application No.: 2019–7017289, filed December 13, 2019, (E–017–2017–0–KR–08);

9. Singapore Patent Application No.: 11201910499V, filed November 11, 2019 (E–017–2017–0–SG–09);

10. United States Patent Application No.: 16/613,187, filed November 13, 2019 (E–017–2017–0–US–10);

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide, and the fields of use may be limited to the following:

''Development, manufacture and commercialization of chimeric antigen receptor T cell (CAR–T) immunotherapies for the treatment of B cell malignancies, wherein the T cells are:

1. Manufactured *ex vivo;*

2. Not engineered to overexpress CD47;

3. Engineered to express a CAR that targets CD22 via the m971 scFv in combination with both:

a. Binders, CARs, or other receptors targeting: CD19, CD20, CD79b, or any combination thereof; and

b. At least one of the following:

—A technology to activate CD2 signaling in the CAR T cell, and/or

—Manufacturing of the cell product using the Storage by Actuated Shuttling (StASh)

Where ''ex vivo'' specifically means where the cells or tissue are removed from a healthy donor (in the case of allogeneic therapy) or the patient (in the case of autologous therapy), modified *ex vivo* and then, implanted, transplanted, infused, or transferred into the patient.

For purposes of clarity, specifically excluded from these Fields of Use are the following:

1. Allogeneically-derived CAR–T immunotherapies that have been engineered to overexpress CD47;

2. CAR–T immunotherapies wherein the CAR–T cells are manufactured within the patient via gene therapy vectors delivered to the patient (*in vivo* CAR–T immunotherapies);

3. Autologously-derived CAR–T immunotherapies that have been engineered to be specific for CD19, CD20, and CD22 (via the m971 scFv) absent the engineering of the CAR–T therapies to activate CD2 signaling and/or StASh as described in the Fields of Use 3(b) above;

4. CAR–T immunotherapies wherein the CAR–T cells are engineered to express a bispecific CAR that is engineered to bind to CD19 and CD22, as described in HHS Ref. E–106–2015 and encompassing the m971 scFv and the CD22 CAR.''

The government-owned technologies that are contemplated in this proposed license are CAR therapies that target CD22 by utilizing the anti-CD22 binder known as m971 alone. The E–080–2008 technology encompasses the m971 binder, while E–291–2012 describes a CAR encompassing the m971 binder. Additionally, E–017–2017 describes a bicistronic CAR vector that encompasses the CD22-targeting m971 CAR and a CAR that targets CD19. CD22 is expressed on the surface of B cells in B cell malignancies and CD22-targeting CAR–T has shown early promise in clinical trials for ALL and NHL both as a monospecific and multispecific therapy. Targeting CD22 in combination with other B cell antigens (CD19, CD20, and/or CD79b in this instance) can lead to more effective CAR–T cell therapies.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 23, 2022.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2022–04245 Filed 2–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel; Research Projects in Cancer Systems Biology (CSBC Research Projects) (U01).

Date: March 31, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1 NCI Clinical and Translational R21 and Omnibus R03 Review.

Date: March 31, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources Training and Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Social and Behavioral Intervention Research to Address Modifiable Risk Factors for Cancer in Rural Populations (R01).

Date: May 5, 2022.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room

7W618, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W618, National Cancer Institute, NIH, Rockville, Maryland 20850, 240–276–6611, *mukesh.kumar3@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04273 Filed 2–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Conference Grant Review R13.

Date: April 7, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 207–Q, Bethesda, MD 20892–7924, (301) 827–7913, *creazzotl@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Member Conflict Mentored Career Development Awards.

Date: April 8, 2022.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 208–Y, Bethesda, MD 20892, (301) 827–7911, *lindsay.garvin@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Multi-site Clinical Trial Special Emphasis Panel.

Date: April 19, 2022.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–A, Bethesda, MD 20892–7924, (301) 827–7912, *copeka@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; HEAL Initiative: Opioid Induced Respiratory Depression.

Date: April 27, 2022.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 435–0297, *goltrykl@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Pulmonary Trials Cooperative (PTC).

Date: April 28, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 827–7953, *kristen.page@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood 3Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 24, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04288 Filed 2–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Neurogenetic Labeling and Imaging Techniques.

Date: March 23, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–915–6301, *marygs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Speech, Language and Communication.

Date: March 25, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Louise Hargrave, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 443–7193, *hargravesl@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases and Immunology.

Date: April 4–5, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrew M. Wolfe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–402–3019, *andrew.wolfe@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Eukaryotic Pathogen Drug Discovery and Resistance.

Date: April 5, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marcus Ferrone, PHARMD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–2371, *marcus.ferrone@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–04274 Filed 2–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Donovan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with Section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Cordant Health Solutions, 2617 East L Street, Tacoma, WA 98421, 800–442–0438 (Formerly: STERLING Reference Laboratories)

Desert Tox, LLC, 5425 E Bell Rd, Suite 125, Scottsdale, AZ, 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services Toxicology, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia Marie Donovan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2022–04277 Filed 2–28–22; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–FEMA–2021–0032; OMB No. 1660–0139]

Agency Information Collection Activities: Proposed Collection; Comment Request; Ready Campaign PSA Creative Testing Research

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of renewal and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Ready Campaign, which is a national public service advertising (PSA) campaign in support of FEMA's mission and is designed to educate and empower Americans to prepare for and respond to emergencies including natural and man-made disasters.

DATES: Comments must be submitted on or before May 2, 2022.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0032. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia Lea Crager; Director, Ready Campaign; at 404–695–5962 or *patricia.crager@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This collection is in accordance with Executive Orders 12862 and 13571 requiring all Federal Agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The Government Performance and Results Act (GPRA) requires Federal agencies to set missions and goals and to measure agency performance against them. The GPRA Modernization Act of 2010 requires quarterly performance assessments of government programs for the purposes of assessing agency performance and improvement. FEMA is collecting information through focus groups to improve its public service advertising campaign on disaster preparedness.

Collection of Information

Title: Ready Campaign PSA Creative Testing Research.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0139.

FEMA Forms: FEMA Form FF–305–FY–21–100 (formerly 008–0–21), Recruitment Screener; FEMA Form FF–305–FY–21–101 (formerly 008–0–22), Focus Group Discussion Guide.

Abstract: FEMA proposes conducting qualitative research in the form of focus groups in order to test creative concepts developed for FEMA's national Ready Campaign PSA campaign, which aims to educate and empower Americans to prepare for and respond to emergencies. The research will help determine the clarity, relevance, and motivating appeal of the concepts prior to final production of the advertising.

Affected Public: Individuals or households.

Estimated Number of Respondents: 90.

Estimated Number of Responses: 90.

Estimated Total Annual Burden Hours: 58.

Estimated Total Annual Respondent Cost: $2,277.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $53,860.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Maile Arthur,

Deputy Director, Information Management Division, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–04256 Filed 2–28–22; 8:45 am]

BILLING CODE 9111–69–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2212]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before May 31, 2022.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2212, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be

considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Clinton County, Iowa and Incorporated Areas Project: 19–07–0016S Preliminary Date: June 1, 2021	
City of Clinton	City Hall, 611 South 3rd Street, Clinton, IA 52733.
Haskell County, Oklahoma and Incorporated Areas Project: 20–06–0082S Preliminary Date: August 31, 2021	
Choctaw Nation of Oklahoma	Choctaw Nation of Oklahoma, Office of Emergency Management, 3653 Big Lots Parkway, Durant, OK 74701.
City of Kinta	City Hall, 303 West Broadway, Kinta, OK 74552.
City of Stigler	City Hall, 115 South Broadway Street, Stigler, OK 74462.
Town of Keota	City Hall, 106 Main Street, Keota, OK 74941.
Town of McCurtain	Town Hall, 308 West Main Street, McCurtain, OK 74944.
Unincorporated Areas of Haskell County	Haskell County Clerk's Office, 105 Southeast 3rd Street, Unit C, Stigler, OK 74462.

[FR Doc. 2022–04185 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2215]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before May 31, 2022.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2215, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Lewis County, Washington and Incorporated Areas Project: 20–10–0025S Preliminary Date: June 25, 2021	
Unincorporated Areas of Lewis County	Lewis County Community Development, 2025 Northeast Kresky Avenue, Chehalis, WA 98532.
Pierce County, Washington and Incorporated Areas Project: 20–10–0026S Preliminary Date: June 25, 2021	
Unincorporated Areas of Pierce County	Pierce County Tacoma Mall Plaza, 2702 South 42nd Street, Suite 201, Tacoma, WA 98409.
Skamania County, Washington and Incorporated Areas Project: 19–10–0014S Preliminary Date: April 30, 2021 and October 26, 2021	
City of North Bonneville	City Hall, 214 CBD Mall Drive, North Bonneville, WA 98639.
City of Stevenson	City Hall, 7121 East Loop Road, Stevenson, WA 98648.
Unincorporated Areas of Skamania County	Skamania County Courthouse Annex, 170 Northwest Vancouver Avenue, Stevenson, WA 98648.

[FR Doc. 2022–04186 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alaska: Anchorage (FEMA Docket No.: B–2158).	Municipality of Anchorage (20–10–0848P).	The Honorable Austin Quinn-Davidson, Mayor, Municipality of Anchorage, 632 West 6th Avenue, Suite 840, Anchorage, AK 99501.	Municipality of Anchorage, 4700 South Bargaw Street, Anchorage, AK 99507.	Nov. 5, 2021	020005
Arizona:					
Coconino (FEMA Docket No.: B–2167).	City of Flagstaff (21–09–0522P).	The Honorable Paul Deasy, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001.	Community Development Department, 211 West Aspen Avenue, Flagstaff, AZ 86001.	Dec. 3, 2021	040020
Maricopa (FEMA Docket No.: B–2167).	City of Buckeye (19–09–1715P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Dec. 10, 2021	040039
Maricopa (FEMA Docket No.: B–2147).	City of Buckeye (20–09–0491P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Sep. 24, 2021	040039
Maricopa (FEMA Docket No.: B–2167).	City of Buckeye (20–09–1158P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Nov. 26, 2021	040039
Maricopa (FEMA Docket No.: B–2147).	City of Buckeye (21–09–0258P)	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Sep. 10, 2021	040039
Maricopa (FEMA Docket No.: B–2147).	City of Goodyear (20–09–1436P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Sep. 24, 2021	040046
Maricopa (FEMA Docket No.: B–2183).	City of Goodyear (21–09–0561P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Feb. 4, 2022	040046
Maricopa (FEMA Docket No.: B–2183).	City of Goodyear (21–09–0613P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Feb. 11, 2022	040046
Maricopa (FEMA Docket No.: B–2158).	City of Surprise (21–09–0673P).	The Honorable Skip Hall, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Public Works Department, Engineering Development Services, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Nov. 5, 2021	040053
Maricopa (FEMA Docket No.: B–2167).	Unincorporated Areas of Maricopa County (19–09–1715P).	The Honorable Jack Sellers, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Dec. 10, 2021	040037
Maricopa (FEMA Docket No.: B–2147).	Unincorporated Areas of Maricopa County (20–09–0491P).	The Honorable Jack Sellers, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Sep. 24, 2021	040037
Pima (FEMA Docket No.: B–2167).	Town of Marana (21–09–0693P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Engineering Department, Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.	Dec. 13, 2021	040118
Pinal (FEMA Docket No.: B–2176).	Town of Florence (21–09–0464P).	The Honorable Tara Walter, Mayor, Town of Florence, P.O. Box 2670, Florence, AZ 85132.	Public Works Department, 224 West 20th Street, Florence, AZ 85132.	Jan. 14, 2022	040084
Pinal (FEMA Docket No.: B–2158)..	Unincorporated Areas of Pinal County (21–09–0194P)	The Honorable Stephen Q. Miller, Chairman, Board of Supervisors, Pinal County, P.O. Box 827, Florence, AZ 85132.	Pinal County Engineering Division, 31 North Pinal Street, Building F, Florence, AZ 85132.	Oct. 22, 2021	040077

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Yavapai (FEMA Docket No.: B–2183).	Unincorporated Areas of Yavapai County (21–09–1317P).	The Honorable Craig L. Brown, Chairman, Board of Supervisors, Yavapai County, 1015 Fair Street, 3rd Floor, Prescott, AZ 86305.	Yavapai County Flood Control District, 1120 Commerce Drive, Prescott, AZ 86305.	Feb. 25, 2022	040093
California:					
Alameda (FEMA Docket No.: B–2183).	Unincorporated Areas of Alameda County (21–09–0655P).	The Honorable Keith Carson, President, Board of Supervisors, Alameda County, 1221 Oak Street, Suite 536, Oakland, CA 94612.	Alameda County Public Works Agency, 399 Elmhurst Street, Hayward, CA 94544.	Feb. 9, 2022	060001
Butte (FEMA Docket No.: B–2176).	City of Gridley (20–09–0709P).	The Honorable Bruce Johnson, Mayor, City of Gridley, 685 Kentucky Street, Gridley, CA 95948.	Public Works Department, 853 Laurel Street, Gridley, CA 95948.	Jan. 31, 2022	060019
Butte (FEMA Docket No.: B–2176).	Unincorporated Areas of Butte County (20–09–0709P).	The Honorable Bill Connelly, Chairman, Board of Supervisors, Butte County, 25 County Center Drive, Suite 200, Oroville, CA 95965.	Butte County Department of Public Works, 7 County Center Drive, Oroville, CA 95965.	Jan. 31, 2022	060017
Riverside (FEMA Docket No.: B–2183).	City of Desert Hot Springs (21–09–1431P).	The Honorable Scott Matas, Mayor, City of Desert Hot Springs, 11–999 Palm Drive, Desert Hot Springs, CA 92240.	Planning Department, 65–95 Pierson Boulevard, Desert Hot Springs, CA 92240.	Feb. 18, 2022	060251
Riverside (FEMA Docket No.: B–2176).	City of Menifee (21–09–0711P).	The Honorable Bill Zimmerman, Mayor, City of Menifee, 29844 Haun Road, Menifee, CA 92586.	Public Works and Engineering Department, 29714 Haun Road, Menifee, CA 92586.	Jan. 24, 2022	060176
Riverside (FEMA Docket No.: B–2176).	City of Perris (21–09–0711P).	The Honorable Michael Vargas, Mayor, City of Perris, 101 North D Street, Perris, CA 92570.	Engineering Department, 24 South D Street, Suite 100, Perris, CA 92570.	Jan. 24, 2022	060258
Riverside (FEMA Docket No.: B–2158).	Unincorporated Areas of Riverside County (21–09–0016P).	The Honorable Karen Spiegel, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92502.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Nov. 26, 2021	060245
Riverside (FEMA Docket No.: B–2183).	Unincorporated Areas of Riverside County (21–09–1431P).	The Honorable Karen Spiegel, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Feb. 18, 2022	060245
San Diego (FEMA Docket No.: B–2167).	City of San Diego, (21–09–0611P).	The Honorable Todd Gloria, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, MS 301, San Diego, CA 92101.	Dec. 15, 2021	060295
San Diego (FEMA Docket No.: B–2167).	Unincorporated Areas of San Diego County, (21–09–0373P).	The Honorable Nathan Fletcher, Chairman, Board of Supervisors, San Diego County, 1600 Pacific Highway Room 335, San Diego, CA 92101.	San Diego County Flood Control District, Department of Public Works, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	Dec. 16, 2021	060284
San Diego (FEMA Docket No.: B–2176).	Unincorporated Areas of San Diego County (21–09–0926P).	The Honorable Nathan Fletcher, Chairman, Board of Supervisors, San Diego County, 1600 Pacific Highway Room 335, San Diego, CA 92101.	San Diego County Flood Control District, Department of Public Works, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	Dec. 27, 2021	060284
San Joaquin (FEMA Docket No.: B–2158).	City of Lathrop (20–09–0630P).	The Honorable Sonny Dhaliwal, Mayor, City of Lathrop, 390 Towne Centre Drive, Lathrop, CA 95330.	Community Development Department, Planning Division, 390 Towne Centre Drive, Lathrop, CA 95330.	Nov. 18, 2021	060738
San Luis Obispo (FEMA Docket No.: B–2147).	City of San Luis Obispo (21–09–0591P).	The Honorable Heidi Harmon, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	City Hall, 990 Palm Street, San Luis Obispo, CA 93401.	Oct. 4, 2021	060310
San Luis Obispo (FEMA Docket No.: B–2176).	City of San Luis Obispo (21–09–0731P).	The Honorable Heidi Harmon, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	City Hall, 990 Palm Street, San Luis Obispo, CA 93401.	Dec. 23, 2021	060310
Santa Clara (FEMA Docket No.: B–2167).	City of San Jose (20–09–1371P).	The Honorable Sam Liccardo, Mayor, City of San Jose, Mayor's Office, 200 East Santa Clara Street, San Jose, CA 95113.	Department of Public Works, 200 East Santa Clara Street Tower, 5th Floor, San Jose, CA 95113.	Nov. 26, 2021	060349
Santa Clara (FEMA Docket No.: B–2167).	Unincorporated Areas of Santa Clara County (20–09–1371P).	The Honorable Mike Wasserman, President, Board of Supervisors, Santa Clara County, 70 West Hedding Street, 10th Floor, San Jose, CA 95110.	Santa Clara County, Department of Planning and Development, 70 West Hedding Street, 7th Floor East Wing, San Jose, CA 95110.	Nov. 26, 2021	060337
Santa Clara (FEMA Docket No.: B–2147).	Unincorporated Areas of Santa Clara County (20–09–1627P).	The Honorable Mike Wasserman, President, Board of Supervisors, Santa Clara County, 70 West Hedding Street, 10th Floor, San Jose, CA 95110.	Santa Clara County, Department of Planning and Development, 70 West Hedding Street, 7th Floor East Wing, San Jose, CA 95110.	Sep. 16, 2021	060337
Ventura (FEMA Docket No.: B–2158).	City of Simi Valley (21–09–0281P).	The Honorable Keith L. Mashburn, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	City Hall, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Nov. 8, 2021	060421

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Ventura (FEMA Docket No.: B–2158).	Unincorporated Areas of Ventura County (20–09–1626P).	The Honorable Linda Parks, Chair, Board of Supervisors, Ventura County, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Public Works Agency, 800 South Victoria Avenue, Ventura, CA 93009.	Oct. 21, 2021	060413
Colorado:					
Larimer (FEMA Docket No.: B–2176).	Town of Berthoud (21–08–0181P).	The Honorable William Karspeck, Mayor, Town of Berthoud, P.O. Box 1229, Berthoud, CO 80513.	Town Hall, 807 Mountain Avenue, Berthoud, CO 80513.	Dec. 22, 2021	080296
Larimer (FEMA Docket No.: B–2176).	Unincorporated Areas of Larimer County (21–08–0181P).	Mr. John Kefalas, Chair, Larimer County, 200 West Oak Street, Fort Collins, CO 80521.	Larimer Courthouse Offices Building, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Dec. 22, 2021	080101
Morgan (FEMA Docket No.: B–2158).	Unincorporated Areas of Morgan County (21–08–0019P).	Mr. Mark Arndt, District 1 Commissioner, Morgan County, P.O. Box 596, Fort Morgan, CO 80701.	Morgan County Planning and Zoning Department, 218 West Kiowa Avenue, Fort Morgan, CO 80701.	Oct. 22, 2021	080129
Summit (FEMA Docket No.: B–2176).	Town of Breckenridge (21–08–0179P).	The Honorable Eric Mamula, Mayor, Town of Breckenridge, P.O. Box 168, Breckenridge, CO 80424.	Public Works, 1095 Airport Road, Breckenridge, CO 80424.	Dec. 27, 2021	080172
Summit (FEMA Docket No.: B–2176).	Unincorporated Areas of Summit County (21–08–0179P).	Ms. Elizabeth Lawrence, District 1 Commissioner Summit County, Board of County Commissioners, P.O. Box 68, Breckenridge, CO 80424.	Summit County Commons, 0037 Peak One Drive, Frisco, CO 80443.	Dec. 27, 2021	080290
Florida:					
Bay (FEMA Docket No.: B–2147).	City of Panama City Beach (19–04–5458P).	The Honorable Mark Sheldon, Mayor, City of Panama City Beach, 17007 Panama City Beach Parkway, Panama City Beach, FL 32413.	City Hall, 110 South Arnold Road, Panama City Beach, FL 32413.	Sep. 22, 2021	120013
Bay (FEMA Docket No.: B–2147).	City of Panama City Beach (19–04–5699P).	The Honorable Mark Sheldon, Mayor, City of Panama City Beach, 17007 Panama City Beach Parkway, Panama City Beach, FL 32413.	City Hall, 110 South Arnold Road, Panama City Beach, FL 32413.	Sep. 22, 2021	120013
Bay (FEMA Docket No.: B–2147)..	Unincorporated Areas of Bay County (19–04–5458P).	Mr. Robert Carroll, Chairman, Commissioner District 2, Bay County, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	Sep. 22, 2021	120004
Duval (FEMA Docket No.: B–2176).	City of Jacksonville (20–04–3087P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, City Hall at St. James, 117 West Duval Street Suite 400, Jacksonville, FL 32202.	Edward Ball Building Development Services, Room 2100, 214 North Hogan Street, Jacksonville, FL 32202.	Jan. 13, 2022	120077
Duval (FEMA Docket No.: B–2158).	City of Jacksonville (21–04–0683P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, City Hall at St. James Building, 117 West Duval Street Suite 400, Jacksonville, FL 32202.	Edward Ball Building Development Services Room 2100, 214 North Hogan Street, Jacksonville, FL 32202.	Oct. 14, 2021	120077
Flagler (FEMA Docket No.: B–2176).	City of Bunnell, (21–04–0706P).	The Honorable Catherine Robinson, Mayor, City of Bunnell, P.O. Box 756, Bunnell, FL 32110.	City Hall, 200 South Church Street, Bunnell, FL 32110.	Jan. 27, 2022	120086
Flagler (FEMA Docket No.: B–2176).	City of Palm Coast (21–04–0706P).	The Honorable David Alfin, Mayor, City of Palm Coast, 160 Lake Avenue, Palm Coast, FL 32164.	City Hall, 2 Commerce Boulevard, Palm Coast, FL 32164.	Jan. 27, 2022	120684
St. Johns (FEMA Docket No.: B–2158 and 2167).	Unincorporated Areas of St. Johns County (20–04–5575P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Nov. 29, 2021	125147
St. Johns (FEMA Docket No.: B–2147).	Unincorporated Areas of St. Johns County (20–04–5766P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Sep. 21, 2021	125147
St. Johns, (FEMA Docket No.: B–2147).	Unincorporated Areas of St. Johns County (20–04–5819P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Sep. 24, 2021	125147
St. Johns (FEMA Docket No.: B–2147).	Unincorporated Areas of St. Johns County (21–04–0576P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Oct. 4, 2021	125147
St. Johns (FEMA Docket No.: B–2158).	Unincorporated Areas of St. Johns County (21–04–0683P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Oct. 14, 2021	125147
St. Johns (FEMA Docket No.: B–2167).	Unincorporated Areas of St. Johns County (21–04–1058P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Dec. 16, 2021	125147
St. Johns (FEMA Docket No.: B–2183).	Unincorporated Areas of St. Johns County (21–04–2134P).	Mr. Jeremiah Ray Blocker, Chair, St. Johns County Board of County Commissioners, 500 San Sabastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	Mar. 1, 2022	125147
Idaho:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Ada (FEMA Docket No.: B–2147).	City of Boise (21–10–0103P).	The Honorable Lauren McLean, Mayor, City of Boise, P.O. Box 500, Boise, ID 83701.	City Hall, 150 North Capitol Boulevard, Boise, ID 83701.	Sep. 24, 2021	160002
Ada (FEMA Docket No.: B–2167).	City of Boise, (21–10–0465P).	The Honorable Lauren McLean, Mayor, City of Boise, P.O. Box 500, Boise, ID 83701.	City Hall, 150 North Capitol Boulevard, Boise, ID 83701.	Dec. 27, 2021	160002
Ada (FEMA Docket No.: B–2158).	City of Eagle, (20–10–1292P).	The Honorable Jason Pierce, Mayor, City of Eagle, 660 East Civic Lane, Eagle, ID 83616.	City Hall, 660 East Civic Lane, Eagle, ID 83616.	Oct. 14, 2021	160003
Ada (FEMA Docket No.: B–2147).	City of Star, (20–10–0725P).	The Honorable Trevor Chadwick, Mayor, City of Star, P.O. Box 130, Star, ID 83669.	City Hall, 10769 West State Street, Star, ID 83669.	Aug. 10, 2021	160236
Ada (FEMA Docket No.: B–2158).	City of Star, (20–10–1292P).	The Honorable Trevor Chadwick, Mayor, City of Star, City Hall, 10769 West State Street, Star, ID 83669.	City Hall, 10769 West State Street, Star, ID 83669.	Oct. 14, 2021	160236
Ada (FEMA Docket No.: B–2147).	Unincorporated Areas of Ada County, (20–10–0725P).	Mr. Rod Beck, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	Aug. 10, 2021	160001
Ada (FEMA Docket No.: B–2158).	Unincorporated Areas of Ada County, (20–10–1292P).	Mr. Rod Beck, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	Oct. 14, 2021	160001
Bannock (FEMA Docket No.: B–2183).	City of Pocatello, (21–10–0641P).	The Honorable Brian Blad, Mayor, City of Pocatello, P.O. Box 4169, Pocatello, ID 83205.	City Hall, 911 North 7th Avenue, Pocatello, ID 83201.	Feb. 21, 2022	160012
Bannock (FEMA Docket No.: B–2183).	City of Pocatello, (21–10–0870P).	The Honorable Brian Blad, Mayor, City of Pocatello, P.O. Box 4169, Pocatello, ID 83205.	City Hall, 911 North 7th Avenue, Pocatello, ID 83201.	Mar. 2, 2022	160012
Camas (FEMA Docket No.: B–2183).	City of Fairfield, (21–10–0381P).	The Honorable Terry Lee, Mayor, City of Fairfield, P.O. Box 336, Fairfield, ID 83327.	City Hall, 407 Soldier Road, Fairfield, ID 83327.	Mar. 2, 2022	160035
Will (FEMA Docket No.: B–2158).	Village of Bolingbrook, (21–05–0627P).	The Honorable Mary Alexander-Basta, Mayor, Village of Bolingbrook, 375 West Briarcliff Road, Bolingbrook, IL 60440.	Village Hall, 375 West Briarcliff Road, Bolingbrook, IL 60440.	Oct. 28, 2021	170812
Illinois:					
Winnebago (FEMA Docket No.: B–2183).	City of Rockford, (21–05–1319P).	The Honorable Thomas P. McNamara, Mayor, City of Rockford, 425 East State Street, 8th Floor, Rockford, IL 61104.	City Hall, 425 East State Street, Rockford, IL 61104.	Jan. 27, 2022	170723
Winnebago (FEMA Docket No.: B–2183).	Unincorporated Areas of Winnebago County, (21–05–1319P).	The Honorable Joseph V. Chiarelli, Chairman, Winnebago County Board, Administration Building, 404 Elm Street, Room 533, Rockford, IL 61101.	Winnebago County Administration Building, 404 Elm Street, Rockford, IL 61101.	Jan. 27, 2022	170720
Indiana:					
Hendricks (FEMA Docket No.: B–2183).	Town of Avon, (21–05–1602P).	Ms. Dawn Lowden, Town of Avon Council President, 6570 East Us Highway 36, Avon, IN 46123.	Town Hall, 6570 East US Highway 36, Avon, IN 46123.	Feb. 11, 2022	180520
Hendricks (FEMA Docket No.: B–2183).	Unincorporated Areas of Hendricks County, (21–05–1602P).	Ms. Phyllis Palmer, Hendricks County Commissioner, 355 South Washington Street, Danville, IN 46122.	Hendricks County Government Center, 355 South Washington Street, Danville, IN 46122.	Feb. 11, 2022	180415
Iowa: Story (FEMA Docket No.: B–2158).	City of Ames, (21–07–0024P).	The Honorable John Haila, Mayor, City of Ames, 515 Clark Avenue, Ames, IA 50010.	City Hall, 515 Clark Avenue, Ames, IA 50010.	Oct. 21, 2021	190254
Kansas: Shawnee (FEMA Docket No.: B–2158).	City of Topeka, (21–07–0131P).	The Honorable Michelle De La Isla, Mayor, City of Topeka, 215 Southeast 7th Street, Room 350, Topeka, KS 66603.	Engineering Division, 620 Southeast Madison Street, Topeka, KS 66603.	Oct. 12, 2021	205187
Michigan:					
Macomb (FEMA Docket No.: B–2183).	Charter Township of Clinton, (21–05–2624P).	Mr. Robert J. Cannon, Township Supervisor, Charter Township of Clinton, 40700 Romeo Plank Road, Clinton, MI 48038.	Civic Center, 40700 Romeo Plank Road, Clinton, MI 48038.	Feb. 2, 2022	260121
Oakland (FEMA Docket No.: B–2158).	City of Farmington Hills, (20–05–4934P).	The Honorable Vicki Barnett, Mayor, City of Farmington Hills, 31555 West Eleven Mile Road, Farmington Hills, MI 48336.	City Hall, 31555 West Eleven Mile Road, Farmington Hills, MI 48336.	Oct. 22, 2021	260172
Oakland (FEMA Docket No.: B–2158).	City of Novi, (20–05–4934P).	The Honorable Bob Gatt, Mayor, City of Novi, Civic Center, 45175 Ten Mile Road, Novi, MI 48375.	Civic Center, 45175 Ten Mile Road, Novi, MI 48375.	Oct. 22, 2021	260175
Oakland (FEMA Docket No.: B–2183).	City of Troy, (21–05–3248P).	The Honorable Ethan Baker, Mayor, City of Troy, City Hall, 500 West Big Beaver Road, Troy, MI 48084.	City Hall, 500 West Big Beaver Road, Troy, MI 48084.	Jan. 21, 2022	260180
Wayne (FEMA Docket No.: B–2158).	Charter Township of Brownstown, (21–05–2424P).	Mr. Andrew Linko, Supervisor, Charter Township of Brownstown, Township Hall, 21313 Telegraph Road, Brownstown, MI 48183.	Charter Township Offices, 21313 Telegraph Road, Brownstone, MI 48183.	Nov. 18, 2021	260218

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Wayne (FEMA Docket No.: B–2167).	City of Northville, (20–05–4952P).	The Honorable Brian Turnbull, Mayor, City of Northville, City Hall, 215 West Main Street, Northville, MI 48167.	City Hall, 215 West Main Street, Northville, MI 48167.	Nov. 26, 2021	260235
Minnesota:					
Marshall (FEMA Docket No.: B–2158).	City of Oslo, (21–05–2364P).	The Honorable Erika Martens, Mayor, City of Oslo, City Hall, P.O. Box 187, Oslo, MN 56744.	City Hall, 107 3rd Avenue East, Oslo, MN 56744.	Nov. 5, 2021	270272
Marshall (FEMA Docket No.: B–2158).	Unincorporated Areas of Marshall County, (21–05–2364P).	Mr. Rolland Miller, Chairperson, Marshall County Board of Commissioners, 26817 420th Avenue Northwest, Warren, MN 56762.	Marshall County Courthouse, 208 East Colvin Avenue, Warren, MN 56762.	Nov. 5, 2021	270638
Washington (FEMA Docket No.: B–2167).	City of Afton, (20–05–4359P).	The Honorable Bill Palmquist, Mayor, City of Afton, 3033 St. Croix Trail, Afton, MN 55001.	City Hall, 3033 St. Croix Trail South, Afton, MN 55001	Nov. 18, 2021	275226
Washington (FEMA Docket No.: B–2176).	City of Hugo, (21–05–0119P).	The Honorable Tom Weidt, Mayor, City of Hugo, City Hall, 14669 Fitzgerald Avenue North, Hugo, MN 55038.	City Hall, 14669 Fitzgerald Avenue North, Hugo, MN 55038.	Jan. 21, 2022	270504
Missouri:					
Boone (FEMA Docket No.: B–2167).	City of Columbia, (21–07–0032P).	The Honorable Brian Treece, Mayor, City of Columbia, P.O. Box 6015, Columbia, MO 65205.	City Hall, 701 East Broadway, Columbia, MO 65205.	Nov. 8, 2021	290036
Boone (FEMA Docket No.: B–2183).	City of Columbia, (21–07–0218P).	The Honorable Brian Treece, Mayor, City of Columbia, P.O. Box 6015, Columbia, MO 65205.	City Hall, 701 East Broadway, Columbia, MO 65205.	Jan. 31, 2022	290036
Howell (FEMA Docket No.: B–2167 and 2176).	City of Willow Springs, (21–07–0432P).	The Honorable Brooke Fair, Mayor, City of Willow Springs, City Hall, P.O. Box 190, Willow Springs, MO 65793.	City Hall, 900 West Main Street, Willow Springs, MO 65793.	Dec. 16, 2021	290167
Howell (FEMA Docket No.: B–2167 and 2176).	Unincorporated Areas of Howell County, (21–07–0432P).	Mr. Mark Collins, County Commissioner, Howell County, 35 Court Square, West Plains, MO 65775.	Howell County Surveyor's Office, 1390 Bill Virdon Boulevard, West Plains, MO 65775.	Dec. 16, 2021	290806
Nevada:					
Carson City (FEMA Docket No.: B–2167).	City of Carson City, (20–09–1029P).	The Honorable Lori Bagwell, Mayor, City of Carson City, City Hall, 201 North Carson Street Suite 2, Carson City, NV 89701.	Building Division, Permit Center, 108 East Proctor Street, Carson City, NV 89701.	Nov. 29, 2021	320001
Clark (FEMA Docket No.: B–2147).	City of Henderson, (21–09–0235P).	The Honorable Debra March, Mayor, City of Henderson, City Hall, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Oct. 1, 2021	320005
Clark (FEMA Docket No.: B–2158).	City of Henderson, (21–09–0246P).	The Honorable Debra March, Mayor, City of Henderson, City Hall, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Nov. 3, 2021	320005
Clark (FEMA Docket No.: B–2147).	Unincorporated Areas of Clark County, (21–09–0038P).	The Honorable Marilyn Kirkpatrick, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89155.	Clark County, Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	Sep. 9, 2021	320003
Clark (FEMA Docket No.: B–2176).	Unincorporated Areas of Clark County, (21–09–0231P).	The Honorable Marilyn Kirkpatrick, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89155.	Clark County, Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	Dec. 27, 2021	320003
Clark (FEMA Docket No.: B–2158).	Unincorporated Areas of Clark County, (21–09–0246P).	The Honorable Marilyn Kirkpatrick, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89155.	Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	Nov. 3, 2021	320003
Washoe (FEMA Docket No.: B–2158).	Unincorporated Areas of Washoe County, (21–09–0392P).	The Honorable Bob Lucey, Chairman, Board of Commissioners, Washoe County, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	Nov. 10, 2021	320019
New Jersey:					
Passaic (FEMA Docket No.: B–2158).	Borough of Pompton Lakes, (21–02–0381P).	The Honorable Michael Serra, Mayor, Borough of Pompton Lakes, 25 Lenox Avenue, Pompton Lakes, NJ 07442.	Municipal Building, 25 Lenox Avenue, Pompton Lakes, NJ 07442.	Oct. 25, 2021	345528
Oregon:					
Jackson (FEMA Docket No.: B–2167).	City of Medford, (21–10–0006P).	The Honorable Randy Sparacino, Mayor, City of Medford, City Hall, 411 West 8th Street, Medford, OR 97501.	City Hall, 411 West 8th Street, Medford, OR 97501.	Nov. 23, 2021	410096
Texas:					
Dallas (FEMA Docket No.: B–2158).	Town of Highland Park, (21–06–0509P).	The Honorable Margo Goodwin, Mayor, Town of Highland Park, 4700 Drexel Drive, Highland Park, TX 75205.	Engineering Department, 4700 Drexel Drive, Highland Park, TX 75205.	Nov. 22, 2021	480178
Lubbock (FEMA Docket No.: B–2167).	City of Lubbock, (20–06–3021P).	The Honorable Dan Pope, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, TX 79457.	City Hall, 1625 13th Street, Lubbock, TX 79401.	Dec. 7, 2021	480452
Rockwall (FEMA Docket No.: B–2183).	City of Rockwall, (21–06–1013P).	The Honorable Kevin Fowler, Mayor, City of Rockwall City Hall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 385 South Goliad Street, Rockwall, TX 75087.	Feb. 7, 2022	480547

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Tarrant (FEMA Docket No.: B–2167).	City of Forth Worth, (20–06–3225P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, Mayor's Office, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 200 Texas Street, Fort Worth, TX 76102.	Dec. 7, 2021	480596
Tarrant (FEMA Docket No.: B–2176).	City of Haslet, (20–06–3134P).	The Honorable Gary Hulsey, Mayor, City of Haslet, 101 Main Street, Haslet, TX 76052.	City Hall, 101 Main Street, Haslet, TX 76052.	Feb. 4, 2022	480600
Virginia:					
Albemarle, (FEMA Docket No.: B–2158).	Unincorporated Areas of Albemarle County, (21–03–0174P).	Mr. Jeff Richardson, Albemarle County Executive, 401 McIntire Road, Charlottesville, VA 22902.	Albemarle County Department of Community Development, 401 McIntire Road, Charlottesville, VA 22902.	Nov. 5, 2021	510006
Washington:					
Clark (FEMA Docket No.: B–2167).	City of Washougal, (21–10–1067P).	The Honorable Molly Coston, Mayor, City of Washougal, City Hall, 1701 C Street, Washougal, WA 98671.	City Hall, 1701 C Street, Washougal, WA 98671.	Nov. 26, 2021	530028
Clark (FEMA Docket No.: B–2167).	Unincorporated Areas of Clark County, (21–10–1067P).	Ms. Eileen Quiring O'Brien, Council Chair, Clark County, P.O. Box 5000, Vancouver, WA 98660.	Clark County Building Department, 1300 Franklin Street, Vancouver, WA 98660.	Nov. 26, 2021	530024
Snohomish (FEMA Docket No.: B–2183).	Unincorporated Areas of Snohomish County, (21–10–1427X).	Mr. Dave Somers, Snohomish County Executive, 3000 Rockefeller Avenue, M/S 407, Everett, WA 98201.	Snohomish County Planning and Development Services, 3000 Rockefeller Avenue, Everett, WA 98201.	Mar. 3, 2022	535534
Wisconsin:					
Brown (FEMA Docket No.: B–2176).	Unincorporated Areas of Brown County, (21–05–0179P).	Mr. Patrick Buckley, Chair, Board of Supervisors District 11, Brown County, P.O. Box 23600, Green Bay, WI 54305.	Brown County, Zoning Office, 305 East Walnut Street, Green Bay, WI 54305.	Dec. 27, 2021	550020
Crawford (FEMA Docket No.: B–2158).	City of Prairie du Chien, (21–05–1223P).	The Honorable Dave Hemmer, Mayor, City of Prairie du Chien, 214 East Blackhawk Avenue, Prairie du Chien, WI 53821.	City Hall, 214 East Blackhawk Avenue, Prairie du Chien, WI 53821.	Oct. 28, 2021	555573
Dane (FEMA Docket No.: B–2167).	City of Sun Prairie, (21–05–0005P).	The Honorable Paul T. Esser, Mayor, City of Sun Prairie, City Hall, 300 East Main Street, 2nd Floor, Sun Prairie, WI 53590.	City Hall, 300 East Main Street, Sun Prairie, WI 53590.	Dec. 15, 2021	550573
La Crosse (FEMA Docket No.: B–2183).	City of La Crosse, (21–05–4567X).	The Honorable Mitch Reynolds, Mayor, City of La Crosse, City Hall, 400 La Crosse Street, La Crosse, WI 54601.	City Hall, 400 La Crosse Street, La Crosse, WI 54601.	Mar. 2, 2022	555562
La Crosse (FEMA Docket No.: B–2183).	Unincorporated Areas of La Crosse County, (21–05–4567X).	Ms. Monica Kruse, Chair, Board of Supervisors, La Crosse County, Administrative Center, 212 6th Street North, La Crosse, WI 54601.	La Crosse County Administration Center, 400 4th Street North, Room 3260, La Crosse, WI 54601.	Mar. 2, 2022	550217
Outagamie (FEMA Docket No.: B–2183).	City of New London, (21–05–1313P).	The Honorable Mark Herter, Mayor, City of New London, 215 North Shawano Street, New London, WI 54961.	City Hall, 215 North Shawano Street, New London, WI 54961.	Mar. 4, 2022	550308
Washington (FEMA Docket No.: B–2176).	Village of Richfield, (21–05–1969P).	Mr. John Jeffords, Village President, Village of Richfield, Village Hall, 4128 Hubertus Road, Hubertus, WI 53033.	Village Hall, 4128 Hubertus Road, Hubertus, WI 53033.	Jan. 14, 2022	550518

[FR Doc. 2022–04187 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Revision of Agency Information Collection Activity Under OMB Review: TSA Airspace Waiver Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0033, abstracted below to OMB for review and approval of a revision of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection of information allows TSA to conduct security threat assessments on individuals who are included in requests to operate in restricted airspace pursuant to an airspace waiver.

DATES: Send your comments by March 31, 2022. A comment to OMB is most effective 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 Review—Open for Public Comments'' and by using the find function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on September 20, 2021, 86 FR 52166.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: TSA Airspace Waiver Program.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 1652–0033.

Forms(s): NA.

Affected Public: Aircraft operators, passengers, and crewmembers.

Abstract: The airspace waiver program allows U.S. and foreign general aviation aircraft operators to apply for approval to operate in U.S. restricted airspace, including flying over the United States and its territories. TSA collects certain information from the aircraft operator concerning the proposed flight and aircraft. TSA also collects identifying information for all pilots, crewmembers and passengers who will be onboard the aircraft operated in restricted airspace to perform a security threat assessment on each individual. TSA is revising the identifying information collected to include gender.

Number of Respondents: 8,881.[1]

Estimated Annual Burden Hours: An estimated 6,785 hours annually.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2022–04268 Filed 2–28–22; 8:45 am]

BILLING CODE 9110–05–P

[1] Since the publication of the 60-day notice, TSA has updated the annual number of respondents from 8,801 to 8,881.

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0043]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until March 31, 2022.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0013. All submissions received must include the OMB Control Number 1615–0043 in the body of the letter, the agency name and Docket ID USCIS–2007–0013.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000. (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on November 18, 2021, at 86 FR 64509, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0013 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Temporary Protected Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–821; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–821 is necessary for USCIS to gather the information necessary to adjudicate Temporary Protected Status (TPS) applications and determine if an applicant is eligible for TPS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–821 via paper filing is 453,600 and the estimated hour burden per response is 2.41 hours. The estimated total number of respondents for the information collection I–821 via electronic filing is 113,400 and the estimated hour burden per response is 1.92 hours. The estimated total number of respondents submitting biometrics for the I–821 567,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,974,294 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $56,958,836.

Dated: February 24, 2022.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–04299 Filed 2–28–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2022–N012; FF09F42300 FVWF97920900000 XXX]

Sport Fishing and Boating Partnership Council; Public Teleconference/Web Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference/web meeting.

SUMMARY: The U.S. Fish and Wildlife Service is announcing a public teleconference/web meeting of the Sport Fishing and Boating Partnership Council (Council), in accordance with the Federal Advisory Committee Act.

DATES:

Teleconference/Web Meeting: The Council will meet via teleconference and broadcast over the internet on Wednesday, March 23, 2022, from 12 p.m. to 4 p.m. Eastern Time, and Thursday, March 24, 2022, from 12 p.m. to 3 p.m. Eastern Time. The meeting is open to the public.

Registration: Registration is required. The deadline for registration is March 21, 2022.

Accessibility: The deadline for accessibility accommodation requests is March 18, 2022. Please see *Accessibility Information* under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via teleconference and broadcast over the internet. To register and receive the web address and telephone number for participation, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Tom McCann, Designated Federal Officer, by email at *thomas_mccann@fws.gov,* or by telephone at 703–358–2056. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Established in 1993, the Sport Fishing and Boating Partnership Council (Council) advises the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service, on aquatic conservation endeavors that benefit recreational fishery resources and recreational boating, and that encourage partnerships among industry, the public, and government.

Meeting Agenda

- Program updates
  - National Outreach and Communications Program
  - Council Subcommittees
  - U.S. Fish and Wildlife Service Fish and Aquatic Conservation
  - Recreational Boating and Fishing Foundation
  - National Oceanic and Atmospheric Administration
- Other Council business
  - Infrastructure Investment and Jobs Act
  - Agenda items and schedule for next meeting
  - Action items
- Public comment and adjournment

The final agenda and other meeting information will be posted on the Council's website at *https://www.fws.gov/sfbpc/.*

Public Input

If you wish to listen to the meeting by telephone, listen and view through the internet, provide oral public comment by phone, or provide a written comment for the Council to consider, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). Written comments should be received no later than Monday, March 21, 2022, to be considered by the Council during the meeting.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the Designated Federal Officer, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this teleconference. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Designated Federal Officer up to 30 days following the meeting. Requests to address the Council during the teleconference will be accommodated in the order the requests are received.

Accessibility Information

Requests for sign language interpretation services, closed captioning, or other accessibility accommodations should be directed to the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) by close of business Friday, March 18, 2022.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

Federal Advisory Committee Act (5 U.S.C. Appendix).

David Miko,

Deputy Assistant Director, Fish and Aquatic Conservation Program, U.S. Fish and Wildlife Service.

[FR Doc. 2022–04239 Filed 2–28–22; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–662 and 731–TA–1554 (Final)]

Pentafluoroethane (R–125) From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of pentafluoroethane (''R–125'') from China, provided for in subheading 2903.44.10 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of China.[2] [3] [4]

Background

The Commission instituted these investigations effective January 12, 2021, following receipt of petitions filed with the Commission and Commerce by Honeywell International, Inc., Charlotte, North Carolina. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of R–125 from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 7, 2021 (86 FR 50171).[5] The Commission conducted its hearing on December 14, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on February 23, 2022. The views of the Commission are contained in USITC Publication 5281 (February 2022), entitled *Pentafluoroethane (R–125) from China: Investigation Nos. 701–TA–662 and 731–TA–1554 (Final).*

By order of the Commission.

Issued: February 24, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04253 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 87 FR 1110 and 87 FR 1117 (January 10, 2022).

[3] Commissioner David S. Johanson dissenting.

[4] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on R–125 from China.

[5] As revised by 86 FR 72619 (December 22, 2021).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1314 (Review)]

Phosphor Copper From Korea; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on phosphor copper from Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted March 1, 2022. To be assured of consideration, the deadline for responses is March 31, 2022. Comments on the adequacy of responses may be filed with the Commission by May 13, 2022.

FOR FURTHER INFORMATION CONTACT: Nitin Joshi (202–708–1669), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 24, 2017, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of phosphor copper from Korea (82 FR 18893). The Commission is conducting a review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined a single *Domestic Like Product* consisting of phosphor copper, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as consisting of all domestic producers of phosphor copper.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 24, 2017.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative

consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 13, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–519, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (*OPTIONAL*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04208 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–475 and 731–TA–1177 (Second Review)]

Aluminum Extrusions From China; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping and countervailing duty orders on aluminum extrusions from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted March 1, 2022. To be assured of consideration, the deadline for responses is March 31, 2022. Comments on the adequacy of responses may be filed with the Commission by May 13, 2022.

FOR FURTHER INFORMATION CONTACT: Celia Feldpausch (202–205–2387), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 26, 2011, the Department of Commerce (''Commerce'') issued antidumping and countervailing duty orders on imports of aluminum extrusions from China (76 FR 30650–30655). Following the first five-year reviews by Commerce and the Commission, Commerce issued a continuation of the antidumping and countervailing duty orders on imports of aluminum extrusions from China, effective April 25, 2017 (82 FR 19025). The Commission is now conducting its second reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Country* in these reviews is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission found two *Domestic Like Products:* (1) Finished heat sinks and (2) all other aluminum extrusions corresponding to Commerce's scope of the investigations. However, the Commission determined that an industry in the United States was not materially injured or threatened with material injury, or that the establishment of an industry in the United States was not materially retarded, by reason of imports of finished heat sinks from China. Therefore, the antidumping and countervailing duty orders pertain to one *Domestic Like Product* on which the Commission made *affirmative* determinations in the original investigations: Aluminum extrusions other than finished heat sinks corresponding to Commerce's scope of the orders. In its full first five-year review determinations, the Commission defined a single *Domestic Like Product* consisting of the aluminum extrusions corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original *affirmative* final determinations, the Commission found one *Domestic Industry* consisting of all domestic producers of certain aluminum extrusions other than finished heat sinks, except for one producer which the Commission excluded as a related party. Certain Commissioners defined the *Domestic Industry* differently in the original final determinations. In its full first five-year review determinations, the Commission defined a single *Domestic Industry* as all U.S. producers of the *Domestic Like Product.*

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 13, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–518, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2015.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant).

If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2015, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (*OPTIONAL*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04195 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–696 (Fifth Review)]

Pure Magnesium From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on pure magnesium from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted March 1, 2022. To be assured of consideration, the deadline for responses is March 31, 2022. Comments on the adequacy of responses may be filed with the Commission by May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202–708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 12, 1995, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of pure magnesium from China (60 FR 25691). Commerce issued a continuation of the antidumping duty order on pure magnesium from China following Commerce's and the Commission first five-year reviews, effective October 27, 2000 (65 FR 64422), second five-year reviews, effective July 10, 2006 (71 FR 38860), third five-year reviews, effective November 22, 2011 (76 FR 72172), and fourth five-year reviews, effective April 17, 2017 (82 FR 18114). The Commission is now conducting a fifth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In the original determinations underlying this review, the Commission found the two classes or kinds of subject merchandise in the scope—pure and alloy magnesium—to be separate *Domestic Like Products.* The Commission found that a domestic industry was materially injured by reason of subject imports of pure magnesium but reached a negative determination with respect to imports of alloy magnesium. In its expedited first five-year review of this order, the Commission defined the *Domestic Like Product* as pure magnesium, coextensive with the scope. In its full second five-year review of this order, the Commission was evenly divided on the question of whether to define the *Domestic Like Product* more broadly than Commerce's scope to include alloy magnesium. The three Commissioners that found the *Domestic Like Product* consisted of pure and alloy magnesium also found that primary and secondary magnesium, and ingot (cast) and granular magnesium, were part of the *Domestic Like Product, i.e.,* they expanded the *Domestic Like Product* to encompass alloy magnesium, secondary magnesium, and granular magnesium. The other three Commissioners did not broaden the *Domestic Like Product* and defined it as pure magnesium, coextensive with the scope. In its expedited third and fourth five-year reviews of this order, the Commission defined the *Domestic Like Product* more broadly than Commerce's scope, as consisting of pure and alloy magnesium, including primary and secondary magnesium, and ingot (cast) and granular magnesium. For purposes of responding to the items in this notice, please provide the requested information separately for the following two possible definitions: (1) All pure magnesium ingot, including off-spec pure magnesium, and (2) pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot (cast) and granular form.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In the original determination and the expedited first five-year review determination, the Commission defined the *Domestic Industry* as consisting of all domestic producers of pure magnesium. In its full second five-year review, those Commissioners who defined the *Domestic Like Product* as including pure and alloy magnesium defined the *Domestic Industry* as consisting of the domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form, including grinders. Those Commissioners who defined the *Domestic Like Product* as pure magnesium defined the *Domestic Industry* producing pure magnesium as consisting of the sole domestic producer of pure magnesium at that time, U.S. Magnesium. In the expedited third and fourth five-year reviews of this order, the Commission defined the *Domestic Industry* as consisting of all domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form. For purposes of responding to the items in this notice, please provide the requested information separately for two possible definitions of the *Domestic Industry:* (1) All producers of pure magnesium ingot, including off-spec pure magnesium and (2) all producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008).

Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 16, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–520, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: Please provide the requested information separately for each of the following two definitions: (1) All pure magnesium ingot, including off-spec pure magnesium and (2) pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the

United States or other countries after 2015.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in metric tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in metric tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in metric tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2015, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (*OPTIONAL*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.
Issued: February 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04202 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1313 (Review)]

1,1,1,2-Tetrafluoroethane (R–134a) From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on 1,1,1,2-Tetrafluoroethane (R–134a) from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the

information specified below to the Commission.

DATES: Instituted March 1, 2022. To be assured of consideration, the deadline for responses is March 31, 2022. Comments on the adequacy of responses may be filed with the Commission by May 13, 2022.

FOR FURTHER INFORMATION CONTACT: Angela Newell (202–205–2060), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 19, 2017, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of 1,1,1,2-Tetrafluoroethane (R–134a) from China (82 FR 18422). The Commission is conducting a review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined a single *Domestic Like Product* consisting of 1,1,1,2-Tetrafluoroethane (R–134a) that is coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined a single *Domestic Industry* as all U.S. producers of 1,1,1,2-Tetrafluoroethane (R–134a).

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 19, 2017.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review.

The deadline for filing such comments is May 13, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–517, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports

and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (*OPTIONAL*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04196 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–557 and 731–TA–1312 (Review)]

Stainless Steel Sheet and Strip From China; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping and countervailing duty orders on stainless steel sheet and strip from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted March 1, 2022. To be assured of consideration, the deadline for responses is March 31, 2022. Comments on the adequacy of responses may be filed with the Commission by May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson (202–205–3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 3, 2017, the Department of Commerce (''Commerce'') issued antidumping and countervailing duty orders on imports of stainless steel sheet and strip from China (82 FR 16160–16162 and 16166–16168). The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Country* in these reviews is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* consisting of stainless steel sheet and strip, corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as consisting of all domestic producers of stainless steel sheet and strip.

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is April 3, 2017.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 16, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–521, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web

address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to

importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (**OPTIONAL**) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04198 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1567–1569 (Final)]

Acrylonitrile-Butadiene Rubber (NBR) From France, Mexico, and South Korea; Scheduling of the Final Phase of Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731–TA–1567–1569 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of acrylonitrile-butadiene rubber (NBR) from France, Mexico, and South Korea, provided for in subheading 4002.59.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: February 2, 2022.

FOR FURTHER INFORMATION CONTACT: Kristina Lara ((202) 205–3386), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene.

This scope covers AB Rubber in solid or nonaqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.,* carbon black, silica, clay); reinforcement agents (*e.g.,* fibers, carbon black, silica); vulcanization agents (*e.g.,* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as AB Rubber) produced by subsequent dissolution and hydrogenation of AB Rubber; and (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.''

Background.—The final phase of these investigations is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of affirmative preliminary determinations by Commerce that imports of acrylonitrile-butadiene rubber (NBR) from France, Korea and Mexico are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 30, 2021, by Zeon Chemicals L.P. and Zeon GP, LLC (collectively ''Zeon''), Louisville, Kentucky.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons,

or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 17, 2022, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, June 1, 2022. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Thursday, May 26, 2022. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on Tuesday, May 30, 2022. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is May 24, 2022. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 8, 2022. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before June 8, 2022. Parties may submit supplemental comments on Commerce's final antidumping duty determinations on or before June 23, 2022. Supplemental party comments may address only Commerce's final determinations and may not exceed five (5) pages in length. On June 30, 2022, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 6, 2022, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 24, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04252 Filed 2–28–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Energy Employees Occupational Illness Compensation Program Act Forms

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 31, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the

collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OWCP is the primary agency responsible for the administration of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. 7384 *et seq.* The Act provides for timely payment of compensation to covered employees and, where applicable, survivors of such employees, who sustained either ''occupational illnesses'' or ''covered illnesses'' incurred in the performance of duty for the Department of Energy and certain of its contractors and subcontractors. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 13, 2021 (86 FR 56986).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Energy Employees Occupational Illness Compensation Program Act Forms.

OMB Control Number: 1240–0002.

Affected Public: Individuals or Households; State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 46,827.

Total Estimated Number of Responses: 48,051.

Total Estimated Annual Time Burden: 16,374 hours.

Total Estimated Annual Other Costs Burden: $36,088.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 23, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–04235 Filed 2–28–22; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Uniform Billing Form

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 31, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OWCP is the agency responsible for administration of the Federal Employees' Compensation Act, 5 U.S.C. 8101 *et seq.,* the Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* and the Energy Employees Occupational Illness Compensation Program Act of 2000, 42 U.S.C. 7384 *et seq.* All three of these statutes require that OWCP pay for medical treatment of beneficiaries. To determine whether billed amounts are appropriate, OWCP needs to identify the patient, the specific services that were rendered and their relationship to the work-related injury or illness. The regulations implementing these statutes require the use of Form OWCP–04 or UB–04 for the submission of medical bills from institutional providers. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 18, 2021 (86 FR 64529).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Uniform Billing Form.

OMB Control Number: 1240–0019.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 16,276.

Total Estimated Number of Responses: 246,305.

Total Estimated Annual Time Burden: 24,684 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 23, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–04236 Filed 2–28–22; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''National Longitudinal Survey of Youth 1979.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 2, 2022.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Longitudinal Survey of Youth 1979 (NLSY79) is a representative national sample of persons who were born in the years 1957 to 1964 and lived in the U.S. in 1978. These respondents were ages 14 to 22 when the first round of interviews began in 1979; they were ages 57 to 64 as of December 31, 2021. The NLSY79 was conducted annually from 1979 to 1994 and has been conducted biennially since 1994. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income, and program participation.

In addition to the main NLSY79, the biological children of female NLSY79 respondents have been surveyed since 1986. A battery of child cognitive, socio-emotional, and physiological assessments was administered biennially from 1986 until 2012 to NLSY79 mothers and their children. Starting in 1994, children who had reached age 15 by December 31 of the survey year (the Young Adults) were interviewed about their work experiences, training, schooling, health, fertility, self-esteem, and other topics. Funding for the NLSY79 Child and Young Adult surveys has been provided by the Eunice Kennedy Shriver National Institute of Child Health and Human Development through an interagency agreement with the BLS and through a grant awarded to researchers at the Ohio State University Center for Human Resource Research (CHRR). The collection referenced in this notice does not include a collection of the NLSY79 Child and Young Adult surveys, but additional collections may be contemplated in the future.

One of the goals of the Department of Labor (DOL) is to produce and disseminate timely, accurate, and relevant information about the U.S. labor force. The BLS contributes to this goal by gathering information about the labor force and labor market and disseminating it to policymakers and the public so that participants in those markets can make more informed, and thus more efficient, choices. Research based on the NLSY79 contributes to the formation of national policy in the areas of education, training, employment programs, school-to-work transitions, and preparations for retirement. In addition to the reports that the BLS produces based on data from the NLSY79, members of the academic community publish articles and reports based on NLSY79 data for the DOL and other funding agencies. To date, more than 2,750 articles examining NLSY79 data have been published in scholarly journals. The survey design provides data gathered from the same respondents over time to form the only data set that contains this type of information for this important population group. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policymakers, thus adversely affecting the DOL's ability to perform its policy- and report-making activities.

II. Current Action

The BLS seeks approval to conduct Round 30 of the NLSY79. Respondents of the NLSY79 will undergo an interview of approximately 69 minutes during which they will answer questions about schooling and training, employment and labor market experiences, family relationships, wealth, and expectations about the future. The NLSY79 Young Adult Survey will not be administered as part of Round 30; future collections of this survey are possible but not slated for current implementation.

During the field period, about 100 NLSY79 interviews will be validated to ascertain whether the interview took place as the interviewer reported and whether the interview was done in a polite and professional manner.

BLS has undertaken a continuing redesign effort to examine the current content of the NLSY79 and provide direction for changes that may be appropriate as the respondents age. The 2022 instrument reflects a number of changes recommended by experts in various fields of social science and by our own internal review of the survey's content. Additions to the questionnaire are accompanied by deletions of previous questions so that the overall time required to complete the survey is estimated to be lower than in 2016, 2018, and 2020.

The Round 30 questionnaire includes new questions on health and nutrition, including consumption of fruit and vegetables, incidence of and vaccination against COVID–19, social and emotional loneliness, and the availability of funds to cover emergency expenses. It also includes questions about perceived discrimination in hiring, firing, promotions, and medical care. Several questions that have appeared in previous rounds of the NLSY79 but not in Round 29 will be cycled back in; these include questions about tasks performed on the job, the importance of religion to the respondent, and wills that the respondent may maintain.

III. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: National Longitudinal Survey of Youth 1979.

OMB Number: 1220–0109.

Type of Review: Revision of a previously approved collection.

Affected Public: Individuals or households.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
NLSY79 Round 29 Main Survey	6,355	Biennially	6,355	69	7,308
Round 29 Validation Interviews	100	Biennially	100	6	10
Totals [1]	6,355		6,455		7,318

[1] The difference between the total number of respondents (6,355) and the total number of responses (6,455) reflects the fact that about 100 respondents will be interviewed twice, once in the main survey and a second time in the 6-minute validation interview.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on February 24, 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–04258 Filed 2–28–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for MET Laboratories, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on March 1, 2022.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *https://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of MET Laboratories, Inc. (MET), as a NRTL. MET's expansion covers the addition of four test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding and, in the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details the scope of recognition. These pages are available from the agency's website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

MET submitted four applications, one dated January 14, 2019 (OSHA–2006–0028–0075), the second dated July 30, 2019 (OSHA–2006–0028–0076), which was amended on July 29, 2020 (OSHA–2006–0028–0077). The third and fourth applications were received on August 13, 2019 (OSHA–2006–0028–0078) and (OSHA–2006–0028–0079). Together, the expansion applications would add four additional test standards to MET's NRTL recognition. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to the applications.

OSHA published the preliminary notice announcing MET's expansion applications in the **Federal Register** on January 21, 2022 (87 FR 3353). The agency requested comments by February 7, 2022, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of MET's scope of recognition.

To obtain or review copies of all public documents pertaining to MET's applications, go to *https://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210. Docket No. OSHA–2006–0028 contains all materials in the record concerning MET's recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA staff examined MET's expansion applications, the capability to meet the requirements of the test

standards, and other pertinent information. Based on the review of this evidence, OSHA finds that MET meets the requirements of 29 CFR 1910.7 for expansion of the NRTL scope of recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant MET's scope of recognition. OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60079–28	Explosive Atmospheres - Part 28: Protection of Equipment and transmission Systems Using Optical Radiation.
TIA 4950	Requirements for Battery-Powered, Portable Land Mobile Radio Applications in Class I, II, and III, Division 1, Hazardous (Classified) Locations.
UL 551	Transformer Type Arc-Welding Machines.
UL 1004–1	Rotating Electrical Machines.

In this notice, OSHA also announces its final determination that the current version of TIA 4950 (Revision B) remains an appropriate test standard under the NRTL Program Regulation, at 29 CFR 1910.7. The preliminary **Federal Register** notice announcing these applications (87 FR 3353) requested comment on OSHA's preliminary determination that the revisions of May 2014 (Revision A) and July 2020 (Revision B) were not substantive in nature, and no comments were received in response to this preliminary determination. With this notice, the expansion for MET's recognition will cover the current version of TIA 4950.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. Under the NRTL Program's policy (see OSHA Instruction CPL 01–00–004, Chapter 2, Section VIII), only standards determined to be appropriate test standards may be approved for NRTL recognition. Any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, MET must abide by the following conditions of the recognition:

1. MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in their operations as a NRTL, and provide details of the change(s);

2. MET must meet all the terms of the NRTL recognition and comply with all OSHA policies pertaining to this recognition; and

3. MET must continue to meet the requirements for recognition, including all previously published conditions on MET's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of MET, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020)), and 29 CFR 1910.7.

Signed at Washington, DC, on February 23, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–04275 Filed 2–28–22; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 22–03]

Privacy Act of 1974; System of Records

AGENCY: Millennium Challenge Corporation.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Millennium Challenge Corporation (MCC) proposes to establish a new system of records titled, ''MCC/Internal-2 Reasonable Accommodations Records.'' This system of records will include information that MCC collects and maintains on current and former federal employees, consultants, applicants, Personal Service Contractors, and federal contractors who request and/or receive reasonable accommodations from MCC for medical or religious reasons.

DATES: Submit comments on or before March 31, 2022. This new system is effective upon publication in the **Federal Register**, except for the routine uses, which are effective March 31, 2022.

ADDRESSES: You may submit written comments through the Federal Rulemaking Portal: *http://www.regulations.gov.* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make them available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Kim Bell, Acting Managing Director of Human Resources, Office of Human Resources, Department of Administration and Finance, Tel. 202–521–3603, *hrmd@mcc.gov.* For privacy questions, please contact: Christopher Ice, Chief Privacy Officer, at *mccprivacy@mcc.gov.* Please put ''Reasonable Accommodations SORN'' in the subject line of your email.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Millennium Challenge

Corporation (MCC) proposes to establish a new system of records titled, ''MCC/Internal-2 Reasonable Accommodations Records.'' This system of records covers MCC's collection and maintenance of records on applicants for employment, employees, and other individuals who participate in MCC programs or activities who request or receive reasonable accommodations or other appropriate modifications from MCC for medical or religious reasons.

Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment on the basis of disability, and Title VII of the Civil Rights Act of 1974 prohibits discrimination, including on the basis of religion. These prohibitions on discrimination require Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship. In some instances, individuals may request modifications to their workspace, schedule, duties, or other requirements for documented medical reasons that may not qualify as a disability but may necessitate an appropriate modification to workplace policies and practices. MCC may address those requests pursuant to the general authority of the CEO contained in Title V of the United States Code.

Reasonable accommodations may include, but are not limited to: Making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work, and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices.

MCC's Office of Human Resources processes requests for reasonable accommodations from employees and applicants for employment, respectively, who require an accommodation due to a medical or religious reason; MCC's Human Resources also processes requests based on documented medical reasons that may not qualify as a disability but that necessitate an appropriate modification to workplace policies and practices. The request, documentation provided in support of the request, any evaluation conducted internally, or by a third party under contract to MCC, the decision regarding whether to grant or deny a request, and the details and conditions of the reasonable accommodation are all included in this system of records.

MCC has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016. This system will be included in the MCC inventory of record systems.

SYSTEM NAME AND NUMBER:

MCC/Internal-2 Reasonable Accommodations Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained primarily by the MCC's Office of Human Resources, Department of Administration and Finance. 1099 Fourteenth Street NW, Suite 700, Washington, DC 20005–3550. Records may be located in locked cabinets and offices, on MCC's local area network, or in designated U.S. data centers for FedRAMP-authorized cloud service providers.

SYSTEM MANAGER(S):

Managing Director of Human Resources, Office of Human Resources, Department of Administration and Finance. 1099 Fourteenth Street NW, Suite 700, Washington, DC 20005–3550.

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); 29 CFR 1614 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 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); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to allow MCC to collect and maintain records on applicants for employment, employees, and other individuals who participate in MCC programs or activities who request or receive reasonable accommodations or other appropriate modifications from MCC for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests MCC-wide to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, Federal employees, consultants, contractors, personal services contractors, and visitors to Federal buildings who requested and/or received reasonable accommodations or other appropriate modifications from MCC for medical or religious reasons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for accommodations or legally required exceptions and supporting documentation may include medical information and/or religious affiliation; notes or records made during consideration of requests; decisions on requests; records made to implement or track decisions on requests.

- Requester's name;
- Requester's status (applicant or current employee);
- Date of request;
- Employee's position title, grade, series, step;
- Position title, grade, series, step of the position the requester is applying for;
- Requester's contact information (addresses, phone numbers, and email addresses);
- Description of the requester's medical condition or disability and any medical documentation provided in support of the request;
- Requester's statement of a sincerely held religious belief and any additional information provided concerning that religious belief and the need for an accommodation to exercise that belief;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was made orally or in writing;
- Documentation by an MCC official concerning whether the disability is obvious, and the accommodation is obvious and uncomplicated, whether medical documentation is required to evaluate the request, whether research is

necessary regarding possible accommodations, and any extenuating circumstances that prevent the MCC official from meeting the relevant timeframe;

- Whether the request for reasonable accommodation was granted or denied, and if denied the reason for the denial;
- The amount of time taken to process the request;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals who request and/or receive a reasonable accommodation or other appropriate modification from MCC, directly or indirectly from an individual's medical provider or another medical professional who evaluates the request, directly or indirectly from an individual's religious or spiritual advisors or institutions, and from management officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the MCC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

(a) To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

(1) MCC, or any component thereof;

(2) Any employee or former employee of MCC in his or her official capacity;

(3) Any employee or former employee of MCC in his or her capacity where the Department of Justice or MCC has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the MCC General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

(b) To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.

(c) To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

(d) To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(e) To appropriate agencies, entities, and persons when

(1) MCC suspects or has confirmed that there has been a breach of the system of records;

(2) MCC has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, MCC (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 MCC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(f) To another Federal agency or Federal entity, when MCC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(g) To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for MCC when MCC determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to MCC employees.

(h) To another federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation issues, when that agency or commission has jurisdiction over reasonable accommodation.

(i) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification.

(j) To another Federal agency, including but not limited to the Equal Employment Opportunity Commission and the Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

(k) To a Federal agency or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation.

(l) To first aid and safety personnel if the individual's medical condition requires emergency treatment.

(m) To another Federal agency or oversight body charged with evaluating MCC's compliance with the laws, regulations, and policies governing reasonable accommodation requests.

(n) To another Federal agency pursuant to a written agreement with MCC to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are maintained in locked file cabinets, and electronic records are maintained in an authorized MCC information system which has a valid and current Authority to Operate.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name or other unique personal identifiers. Records are indexed by name of subject; MCC department, division, or contract; or the type of accommodation being requested.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system of records are maintained in accordance with GRS 2.3 and are destroyed three years after separation from the agency or all appeals are concluded, whichever is

later, but longer retention is authorized if requested for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical, and physical security measures. MCC security measures are in compliance with the Federal Information Security Modernization Act (Pub. L. 113–283), associated MCC policies, and applicable standards and guidance from the National Institute of Standards and Technology. Strict controls have been imposed to minimize the risk of compromising the information that is stored. Access to the paper and electronic records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

NOTIFICATION PROCEDURES:

Any person wanting to know whether this system of records contains information about him or her should contact the System Manager. Such person should provide his or her full name, position title and office location at the time the accommodation was requested, and a mailing address to which a response is to be sent.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Millennium Challenge Corporation, Attn: FOIA Program Office, 1099 Fourteenth Street NW, Suite 700, Washington, DC 20005–3550. or by emailing *foia@mcc.gov.* Individuals must furnish the following information for their records to be located:

1. Full name.

2. Signature.

3. The reason why the individual believes this system contains information about him/her.

4. The address to which the information should be sent.

CONTESTING RECORD PROCEDURES:

Same as the Notification Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: February 23, 2022.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2022–04183 Filed 2–28–22; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chair of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out her functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chair; and to consider gifts offered to NEH and make recommendations thereon to the Chair.

DATES: The meeting will be held on Monday, March 7, 2022, from 11:00 a.m. until 2:30 p.m., and Tuesday, March 8, 2022, from 11:00 a.m. until adjourned.

ADDRESSES: The meeting will be held by videoconference originating at Constitution Center, 400 7th Street SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The following Committees of the National Council on the Humanities will convene by videoconference on March 7, 2022, from 11:00 a.m. until 2:30 p.m., to discuss specific grant applications and programs before the Council:

Challenge Programs;
Education Programs;
Federal/State Partnership;
Preservation and Access;
Public Programs; and
Research Programs.

The plenary session of the National Council on the Humanities will convene by videoconference on March 8, 2022, at 11:00 a.m. The agenda for the plenary session will be as follows:

A. Minutes of Previous Meeting
B. Reports
  1. Chair's Remarks
  2. Chief of Staff's Remarks
  3. Reports on Policy and General Matters
C. Challenge Programs
D. Education Programs
E. Federal/State Partnership
F. Preservation and Access
G. Public Programs
H. Research Programs

This meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B) of Title 5 U.S.C., as amended, because it will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: February 23, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022–04215 Filed 2–28–22; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Call for Nominations

AGENCY: Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting nominations for the position of Nuclear Cardiologist on the Advisory Committee on the Medical Uses of Isotopes (ACMUI). Nominees should currently be practicing as a Nuclear Cardiologist.

DATES: Nominations are due on or before May 2, 2022.

Nomination Process: Submit an electronic copy of resume or curriculum vitae, along with a cover letter, to Mr. Don Lowman, *Donald.Lowman@nrc.gov.* The cover letter should describe the nominee's current involvement as a

Nuclear Cardiologist and express the nominee's interest in the position. Please ensure that the resume or curriculum vitae includes the following information, if applicable: Education; certification(s); professional association and committee membership activities; duties and responsibilities in current and previous clinical, research, and/or academic position(s).

FOR FURTHER INFORMATION CONTACT: Mr. Don Lowman, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards; (301) 415–5452; *Donald.Lowman@nrc.gov.*

SUPPLEMENTAL INFORMATION: ACMUI members possess the medical and technical skills needed to address evolving issues. The current membership is comprised of the following professionals: (a) Nuclear medicine physician; (b) nuclear cardiologist; (c) two radiation oncologists; (d) diagnostic radiologist; (e) therapy medical physicist; (f) nuclear medicine physicist; (g) nuclear pharmacist; (h) health care administrator; (i) radiation safety officer; (j) patients' rights advocate; (k) Food and Drug Administration representative; and (l) Agreement State representative. For additional information about membership on the ACMUI, visit the ACMUI Membership web page, *https://www.nrc.gov/about-nrc/regulatory/advisory/acmui/membership.html.*

The ACMUI Nuclear Cardiologist provides advice to NRC staff on issues associated with the medical use of byproduct material as it relates to nuclear cardiology. This individual is appointed based on their professional and personal experience with and/or knowledge about nuclear medicine and nuclear cardiology, involvement and/or leadership with cardiology organizations, and other information obtained in letters or during the selection process. Nominees should have the demonstrated ability to establish effective work relationships with peers and implement successful approaches to problem solving and conflict resolution.

The ACMUI advises the NRC on policy and technical issues that arise in the regulation of the medical use of byproduct material. Responsibilities of an ACMUI member include providing comments on changes to the NRC regulations and guidance; evaluating certain non-routine uses of byproduct material; providing technical assistance in licensing, inspection, and enforcement cases; and bringing key issues to the attention of the NRC staff, for appropriate action. Committee members currently serve a four-year term and may be considered for reappointment to an additional term.

Nominees must be U.S. citizens and be able to devote approximately 160 hours per year to ACMUI business. Members are expected to attend semi-annual meetings at NRC headquarters in Rockville, Maryland and to participate in teleconferences or virtual meetings, as needed. Members who are not Federal employees are compensated for their service. In addition, members are reimbursed for travel (including per diem in lieu of subsistence) and are reimbursed secretarial and correspondence expenses. Full-time Federal employees are reimbursed for travel expenses only.

Security Background Check: The selected nominee will undergo a thorough security background check. Security paperwork may take the nominee several weeks to complete. Nominees will also be required to complete a financial disclosure statement to avoid conflicts of interest.

Dated at Rockville, Maryland this 24th day of February, 2022.

For the U.S. Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–04270 Filed 2–28–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0117]

Acceptability of ASME Code Section III, Division 5, High Temperature Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplement to draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment supplemental information for draft regulatory guide (DG), DG–1380 (proposed Revision 2 to Regulatory Guide [RG] 1.87), ''Acceptability of ASME Code Section III, Division 5, 'High Temperature Reactors.''' This DG endorses, with conditions, the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (ASME Code) Section III, ''Rules for Construction of Nuclear Facility Components,'' Division 5, ''High Temperature Reactors,'' and Code Cases N–861 and N–862. On August 20, 2021, the NRC published DG–1380 requesting public comment. Since then, the NRC staff has reviewed Code Cases N–872 and N–898 for potential endorsement. This supplemental notice informs the public that the NRC staff is considering endorsement of these two additional Code Cases in the final RG 1.87 (Revision 2) and requests comments on the proposed endorsement and revisions.

DATES: Submit comments by March 31, 2022. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0117. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Poehler, Office of Nuclear Regulatory Research, telephone: 301–415–8353, email: *Jeffrey.Poehler@nrc.gov,* Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301–415–8113, email: *Robert.Roche-Rivera@nrc.gov,* and Maryam Khan, Office of Nuclear Reactor Regulation, telephone: 301–415–6215, email: *Maryam.Khan@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0117 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0117.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0117 in your comment submission.

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

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

II. Additional Information

The NRC is issuing for public comment supplemental information to a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The proposed Revision 2 to RG 1.87, entitled ''Acceptability of ASME Code Section III, Division 5, 'High Temperature Reactors,' '' is temporarily identified by its task number, DG–1380 (ADAMS Accession No. ML21091A276). Its regulatory analysis may be found in ADAMS under Accession No. ML21091A277. On August 20, 2021, the NRC published DG–1380 for public comment (86 FR 46888). DG–1380 endorsed, with conditions, the ASME Code Section III, Division 5, and Code Cases N–861 and N–862. Since then, the NRC staff has reviewed Code Cases N–872 and N–898 for potential endorsement. This supplemental notice for DG–1380 informs the public that the NRC staff is considering the endorsement of these two additional Code Cases in the final RG 1.87 (Revision 2) and provides supplemental information addressing the proposed endorsement and revisions. The technical basis for the NRC's proposed endorsement of Code Cases N–872 and N–898 is contained in Technical Letter Report TLR–RES/DE/REB–2022–01, ''Review of Code Cases Permitting Use of Nickel-Based Alloy 617 in Conjunction with ASME Section III, Division 5'' (ML22031A137).

III. Request for Comment

The NRC staff welcomes comments on the following proposed endorsement and revisions to DG–1380.

In Section C of DG–1380, the staff is proposing to (1) add a new Table 1, ''Acceptable ASME Code, Section III, Division 5 Code Cases,'' to list Code Case N–872, which the staff proposes to endorse without conditions; (2) renumber what was previously designated as Table 1 in DG–1380 to Table 2, ''Conditionally Acceptable ASME Code, Section III, Division 5 Code Cases''; and (3) add Code Case N–898 with proposed conditions in the renumbered Table 2 as follows:

Table 1. Acceptable ASME Code, Section III, Division 5 Code Cases

Code Case Number	Code Case Title	Supplement/Edition
N-872	Use of 52Ni-22Cr-13Co-9Mo Alloy 617 (UNS N06617) for Low Temperature Service Construction, Section III, Division 5."	0/2017

Table 2. Conditionally Acceptable ASME Code, Section III, Division 5 Code Cases

Code Case Number	Code Case Title/Limitation	Supplement/Edition
…	…	…
N-898	*Use of Alloy 617 (UNS N06617) for Class A Elevated Temperature Service Construction Section III, Division 5* When applying HBB-T-1710 and HBB-4800 to Alloy 617 components, applicants and licensees should develop their own plans to address the potential for stress relaxation cracking in their designs. These plans should address factors such as weld joint design and controls on welding in addition to the required heat treatment of HBB-4800. When applying HBB-T-1836(2)(-b), the equation for plastic strain in the code case should be replaced with the following equation: $for\ \sigma > \sigma_1, \varepsilon_p = -\frac{1}{\delta} ln\left(1 - \frac{\sigma - \sigma_1}{\sigma_p - \sigma_1}\right)$	4/2019

IV. Backfitting, Forward Fitting, and Issue Finality

DG–1380, if finalized, would not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' (ADAMS Accession No. ML18093B087); constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants.'' The guidance would not apply to any current licensees or applicants or existing or requested approvals under 10 CFR part 52, and

therefore, its issuance cannot be a backfit or forward fit or affect issue finality. Further, as explained in DG–1380, applicants and licensees would not be required to comply with the positions set forth in DG–1380.

Dated: February 23, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2022–04184 Filed 2–28–22; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Request for Coverage Determination Form

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, with modifications, under the Paperwork Reduction Act, of a collection of information necessary for PBGC to determine whether a plan is covered under title IV of the Employee Retirement Security Income Act of 1974. This notice informs the public of PBGC's intent and solicits public comment on the collection of information, as modified.

DATES: Comments must be submitted on or before May 2, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.* Refer to OMB control number 1212–0072 in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to OMB control number 1212–0072. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Commenters should not include any

information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (''confidential business information''). Submission of confidential business information without a request for protected treatment constitutes a waiver of any claims of confidentiality.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–229–4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005–4026; 202–229–6563. (If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information that filers use to request that PBGC determine whether a defined benefit pension plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). (OMB control number 1212–0072; expires June 30, 2022). This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

A plan is covered under title IV, and thereby insured by PBGC, if it is described in section 4021(a) of ERISA and does not meet one of the exemptions from coverage listed in section 4021(b)(1)–(13). If a question arises about whether a plan is covered under title IV, a plan may submit the Request for Coverage Determination form to PBGC.

The Request for Coverage Determination form and corresponding instructions are suitable for all types of requests, but they highlight the four plan types for which coverage determinations are most frequently requested: (1) Church plans as listed in section 4021(b)(3) of ERISA; (2) plans that are established and maintained exclusively for the benefit of plan sponsors' substantial owners as listed in section 4021(b)(9); (3) plans covering, since September 2, 1974, no more than 25 active participants that are established and maintained by professional services employers as listed in section 4021(b)(13); and (4) Puerto Rico-based plans within the meaning of section 1022(i)(1) of ERISA. PBGC needs the information requested to determine whether a plan is covered or not covered under title IV of ERISA.

PBGC is proposing editorial and formatting changes to question 1 and 2 of Part II of the form. These revisions are intended to provide greater clarity to filers. In addition, PBGC is proposing to add a new question to Part II inquiring about the number of eligible participants with no accrued benefit. This addition is intended to garner a more accurate count of a plan's participants. Finally, PBGC is amending Question 4 of Part III applicable to a plan seeking a determination as a substantial owners plan. Under the amendment, a plan will need to provide the dates when participants separated from service, in addition to dates and amounts of payment to them. This addition is intended to allow PBGC to properly count payees who may still be participants in a plan even after distributions have occurred.

The collection of information has been approved under OMB control number 1212–0072 (expires June 31, 2022). PBGC intends to request that OMB extend its approval, with modifications, for another 3 years. 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 each year there will be 310 Request for Coverage Determination forms submitted to PBGC. PBGC further estimates the average hour burden is 1.5 hours and average cost burden is $300. The total estimated annual burden of the collection of information is 465 hours and $93,000.

PBGC is soliciting public comments to—

- 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 methodologies 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.

Issued in Washington, DC, by:

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–04289 Filed 2–28–22; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 3, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory,

examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: February 24, 2022.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2022–04325 Filed 2–25–22; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0699]

Oaktree SBIC Fund, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Oaktree SBIC Fund, L.P., 1301 Avenue of the Americas, New York, NY 10019, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of three small concerns, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Oaktree SBIC Fund, L.P. proposes to provide financing in an acquisition that will benefit an Associate, Oaktree Mezzanine Fund IV, L.P.

The financing is brought within the purview of § 107.730(a)(4) of the Regulations because Oaktree SBIC Fund, L.P., will provide financing in a transaction to acquire a Small Business, Smart Care Equipment Solutions, 12539 S Holiday Drive, Alsip, IL 60803. This transaction is considered a conflict of interest requiring prior SBA approval because a portion of proceeds will be used to redeem outstanding debt held by an Associate of Oaktree SBIC Fund, L.P., Oaktree Mezzanine Fund IV, L.P.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–04234 Filed 2–28–22; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0340]

Bayview Capital Partners IV, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Bayview Capital Partners IV, L.P., 301 Carlson Parkway, Suite 325, Minnetonka, MN 55305, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, is seeking an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Bayview Capital Partners IV, L.P. is seeking a written exemption from SBA for a proposed financing to The Sierra Holding Company LLC dba Fenix Group, 11400 West 47th Street, Minnetonka, MN 55343.

The financing is brought within the purview of § 107.730(a) of the Regulations because The Sierra Holding Company LLC dba Fenix Group is an Associate of Bayview Capital Partners IV, L.P. because Associate Bayview Capital Partners III, L.P. owns a greater than ten percent interest in The Sierra Holding Company LLC dba Fenix Group, therefore this transaction is considered *Financing which constitute conflicts of interest* requiring SBA's prior written exemption.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

U.S. Small Business Administration.

Bailey G. DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–04231 Filed 2–28–22; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0312]

Freeport Financial SBIC Fund, L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0312 issued to Freeport Financial SBIC Fund, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–04227 Filed 2–28–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0349]

Main Street Capital III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Main Street Capital III, L.P., 1300 Post Oak Blvd., Suite 800, Houston, TX 77056, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the ''Act''), in connection with a financing involving small concern NuStep, LLC located at 511 Venture Drive, Ann Arbor, MI 48108, provided notice of this transaction to the Small Business Administration (''SBA'') pursuant to the Regulations found at 13 CFR 107. The financing is brought within the purview of 13 CFR 107.730—Financings which constitute conflicts of interests, of the Regulations because NuStep, LLC is an Associate of Main Street Capital III, L.P. because Associate Main Street Equity Investment, Inc. owns a greater than ten percent interest in the NuStep, LLC.

This financing is pursuant to § 107.730 (f) of the Regulations because Main Street Capital III, L.P.'s parent corporation, Main Street Capital Corporation, is registered under the Investment Company Act of 1940 and received an exemption from the Securities and Exchange Commission for the transaction.

Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication, to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

U.S. Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–04229 Filed 2–28–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0349]

Main Street Capital III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Main Street Capital III, L.P., 1300 Post Oak Blvd., Suite 800, Houston, TX 77056, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the ''Act''), in connection with a financing involving small concern Charps, LLC located at 453 Tower St. NW, Clearbrook, MN 56634, provided notice of this transaction to the Small Business Administration (''SBA'') pursuant to the Regulations found at 13 CFR 107. The financing is brought within the purview of 13 CFR 107.730—Financings which constitute conflicts of interests, of the Regulations because Charps, LLC is an Associate of Main Street Capital III, L.P. because Associate Main Street Equity Investment, Inc. owns a greater than ten percent interest in the Charps, LLC.

This financing is pursuant to § 107.730 (f) of the Regulations because Main Street Capital III, L.P.'s parent corporation, Main Street Capital Corporation, is registered under the Investment Company Act of 1940 and received an exemption from the Securities and Exchange Commission for the transaction.

Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication, to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

U.S. Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–04228 Filed 2–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Solicitation of applications.

SUMMARY: By **Federal Register** notice on January 7, 2022 the Federal Aviation Administration (FAA) and the National Park Service (NPS) invited interested persons to apply to fill one existing and two upcoming vacancies on the National Parks Overflights Advisory Group (NPOAG). This notice informs the public of the selection made for the two upcoming vacancies representing Native American and general aviation concerns. No selection was made for the existing opening representing Native American tribal concerns so this notice also invites persons interested in that opening to apply.

DATES: Persons interested in applying for the NPOAG opening representing Native American concerns will need to apply by March 31, 2022.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 S. Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405–7017, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Membership

The current NPOAG is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG are as follows:

Melissa Rudinger representing general aviation with one upcoming opening due to Melissa Rudinger's 3 year term ending; John Becker, James Viola, and Eric Lincoln representing commercial air tour operators; Dick Hingson, Les Blomberg, Robert Randall, and John Eastman representing environmental interests; and Carl Slater representing Native American tribes with one current opening and one upcoming opening due to Carl Slater's 3 year term ending.

Selections

Murray Huling has been chosen for a 3-year term to represent general aviation concerns. NPOAG members' 3-year terms commence on the publication date of this **Federal Register** notice. Carl Slater was selected for another 3 year term to represent Native American concerns. No selection was made for the other current opening to represent Native American concerns. The FAA and NPS invite persons interested in applying for this remaining opening on the NPOAG to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the NPOAG must be made to Mr. Lusk in writing and postmarked or emailed on or before March 31, 2022. The request should indicate whether or not you are a member of, or have an affiliation with, a federally recognized Native American tribe. The request should also state what expertise you would bring to the NPOAG as related to issues and concerns with aircraft flights over national parks and/or tribal lands. The term of service for NPOAG members is 3 years. Current members may re-apply for another term. On August 13, 2014,

the Office of Management and Budget issued revised guidance regarding the prohibition against appointing or not reappointing federally registered lobbyists to serve on advisory committees (79 FR 47482).

Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in El Segundo, CA.

Keith Lusk,

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2022–04214 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–10578; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23238; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0017; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2008–0266; FMCSA–2008–0292; FMCSA–2009–0011; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0303; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0102; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0275; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2011–26690; FMCSA–2012–0279; FMCSA–2012–0338; FMCSA–2013–0022; FMCSA–2013–0026; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0071; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2015–0347; FMCSA–2015–0348; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0033; FMCSA–2016–0209; FMCSA–2016–0377; FMCSA–2017–0017; FMCSA–2017–0019; FMCSA–2017–0024; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0006; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010; FMCSA–2018–0012; FMCSA–2019–0008; FMCSA–2019–0009; FMCSA–2019–0010; FMCSA–2019–0013; FMCSA–2019–0015; FMCSA–2019–0017; FMCSA–2019–0018; FMCSA–2019–0019; FMCSA–2020–0005; FMCSA–2020–0006]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 224 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirements in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before March 31, 2022.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–1998–4334, Docket No. FMCSA–1999–6156, Docket No. FMCSA–1999–6480, Docket No. FMCSA–2001–10578, Docket No. FMCSA–2002–11714, Docket No. FMCSA–2002–12844, Docket No. FMCSA–2003–15892, Docket No. FMCSA–2003–16564, Docket No. FMCSA–2004–17984, Docket No. FMCSA–2004–18885, Docket No. FMCSA–2005–21254, Docket No. FMCSA–2005–21711, Docket No. FMCSA–2005–22194, Docket No. FMCSA–2005–22727, Docket No. FMCSA–2005–23238, Docket No. FMCSA–2006–24015, Docket No. FMCSA–2006–24783, Docket No. FMCSA–2007–0017, Docket No. FMCSA–2007–27897, Docket No. FMCSA–2008–0021, Docket No. FMCSA–2008–0174, Docket No. FMCSA–2008–0231, Docket No. FMCSA–2008–0266, Docket No. FMCSA–2008–0292, Docket No. FMCSA–2009–0011, Docket No. FMCSA–2009–0154, Docket No. FMCSA–2009–0206, Docket No. FMCSA–2009–0291, Docket No. FMCSA–2009–0303, Docket No. FMCSA–2010–0372, Docket No. FMCSA–2010–0385, Docket No. FMCSA–2011–0102, Docket No. FMCSA–2011–0124, Docket No. FMCSA–2011–0140, Docket No. FMCSA–2011–0275, Docket No. FMCSA–2011–0299, Docket No. FMCSA–2011–0324, Docket No. FMCSA–2011–0325, Docket No. FMCSA–2011–0365, Docket No. FMCSA–2011–0366, Docket No. FMCSA–2011–0378, Docket No. FMCSA–2011–0379, Docket No. FMCSA–2011–0380, Docket No. FMCSA–2011–26690, Docket No. FMCSA–2012–0279, Docket No. FMCSA–2012–0338, Docket No. FMCSA–2013–0022, Docket No. FMCSA–2013–0026, Docket No. FMCSA–2013–0027, Docket No. FMCSA–2013–0028, Docket No. FMCSA–2013–0165, Docket No. FMCSA–2013–0166, Docket No. FMCSA–2013–0167, Docket No. FMCSA–2013–0168, Docket No. FMCSA–2013–0169, Docket No. FMCSA–2013–0170, Docket No. FMCSA–2013–0174, Docket No.

FMCSA–2014–0002, Docket No. FMCSA–2014–0003, Docket No. FMCSA–2014–0004, Docket No. FMCSA–2014–0010, Docket No. FMCSA–2014–0296, Docket No. FMCSA–2014–0298, Docket No. FMCSA–2015–0048, Docket No. FMCSA–2015–0049, Docket No. FMCSA–2015–0052, Docket No. FMCSA–2015–0053, Docket No. FMCSA–2015–0055, Docket No. FMCSA–2015–0056, Docket No. FMCSA–2015–0070, Docket No. FMCSA–2015–0071, Docket No. FMCSA–2015–0072, Docket No. FMCSA–2015–0344, Docket No. FMCSA–2015–0345, Docket No. FMCSA–2015–0347, Docket No. FMCSA–2015–0348, Docket No. FMCSA–2015–0350, Docket No. FMCSA–2015–0351, Docket No. FMCSA–2016–0024, Docket No. FMCSA–2016–0033, Docket No. FMCSA–2016–0209, Docket No. FMCSA–2016–0377, Docket No. FMCSA–2017–0017, Docket No. FMCSA–2017–0019, Docket No. FMCSA–2017–0024, Docket No. FMCSA–2017–0026, Docket No. FMCSA–2017–0028, Docket No. FMCSA–2018–0006, Docket No. FMCSA–2018–0007, Docket No. FMCSA–2018–0008, Docket No. FMCSA–2018–0010, Docket No. FMCSA–2018–0012, Docket No. FMCSA–2019–0008, Docket No. FMCSA–2019–0009, Docket No. FMCSA–2019–0010, Docket No. FMCSA–2019–0013, Docket No. FMCSA–2019–0015, Docket No. FMCSA–2019–0017, Docket No. FMCSA–2019–0018, Docket No. FMCSA–2019–0019, Docket No. FMCSA–2020–0005, or Docket No. FMCSA–2020–0006 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–1998–4334, FMCSA–1999–6156, FMCSA–1999–6480, FMCSA–2001–10578, FMCSA–2002–11714, FMCSA–2002–12844, FMCSA–2003–15892, FMCSA–2003–16564, FMCSA–2004–17984, FMCSA–2004–18885, FMCSA–2005–21254, FMCSA–2005–21711, FMCSA–2005–22194, FMCSA–2005–22727, FMCSA–2005–23238, FMCSA–2006–24015, FMCSA–2006–24783, FMCSA–2007–0017, FMCSA–2007–27897, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0266, FMCSA–2008–0292, FMCSA–2009–0011, FMCSA–2009–0154, FMCSA–2009–0206, FMCSA–2009–0291, FMCSA–2009–0303, FMCSA–2010–0372, FMCSA–2010–0385, FMCSA–2011–0102, FMCSA–2011–0124, FMCSA–2011–0140, FMCSA–2011–0275, FMCSA–2011–0299, FMCSA–2011–0324, FMCSA–2011–0325, FMCSA–2011–0365, FMCSA–2011–0366, FMCSA–2011–0378, FMCSA–2011–0379, FMCSA–2011–0380, FMCSA–2011–26690, FMCSA–2012–0279, FMCSA–2012–0338, FMCSA–2013–0022, FMCSA–2013–0026, FMCSA–2013–0027, FMCSA–2013–0028, FMCSA–2013–0165, FMCSA–2013–0166, FMCSA–2013–0167, FMCSA–2013–0168, FMCSA–2013–0169, FMCSA–2013–0170, FMCSA–2013–0174, FMCSA–2014–0002, FMCSA–2014–0003, FMCSA–2014–0004, FMCSA–2014–0010, FMCSA–2014–0296, FMCSA–2014–0298, FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0052, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0056, FMCSA–2015–0070, FMCSA–2015–0071, FMCSA–2015–0072, FMCSA–2015–0344, FMCSA–2015–0345, FMCSA–2015–0347, FMCSA–2015–0348, FMCSA–2015–0350, FMCSA–2015–0351, FMCSA–2016–0024, FMCSA–2016–0033, FMCSA–2016–0209, FMCSA–2016–0377, FMCSA–2017–0017, FMCSA–2017–0019, FMCSA–2017–0024, FMCSA–2017–0026, FMCSA–2017–0028, FMCSA–2018–0006, FMCSA–2018–0007, FMCSA–2018–0008, FMCSA–2018–0010, FMCSA–2018–0012, FMCSA–2019–0008, FMCSA–2019–0009, FMCSA–2019–0010, FMCSA–2019–0013, FMCSA–2019–0015, FMCSA–2019–0017, FMCSA–2019–0018, FMCSA–2019–0019, FMCSA–2020–0005, FMCSA–2020–0006 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–1998–4334; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–10578; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23238; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0017; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2008–0266; FMCSA–2008–0292; FMCSA–2009–0011; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0303; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0102; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0275; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2011–26690; FMCSA–2012–0279; FMCSA–2012–0338; FMCSA–2013–0022; FMCSA–2013–0026; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0071; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2015–0347; FMCSA–2015–0348; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0033; FMCSA–2016–0209; FMCSA–2016–0377; FMCSA–2017–0017; FMCSA–2017–0019; FMCSA–2017–0024; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–

0006; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010; FMCSA–2018–0012; FMCSA–2019–0008; FMCSA–2019–0009; FMCSA–2019–0010; FMCSA–2019–0013; FMCSA–2019–0015; FMCSA–2019–0017; FMCSA–2019–0018; FMCSA–2019–0019; FMCSA–2020–0005; FMCSA–2020–0006), 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–1998–4334, FMCSA–1999–6156, FMCSA–1999–6480, FMCSA–2001–10578, FMCSA–2002–11714, FMCSA–2002–12844, FMCSA–2003–15892, FMCSA–2003–16564, FMCSA–2004–17984, FMCSA–2004–18885, FMCSA–2005–21254, FMCSA–2005–21711, FMCSA–2005–22194, FMCSA–2005–22727, FMCSA–2005–23238, FMCSA–2006–24015, FMCSA–2006–24783, FMCSA–2007–0017, FMCSA–2007–27897, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0266, FMCSA–2008–0292, FMCSA–2009–0011, FMCSA–2009–0154, FMCSA–2009–0206, FMCSA–2009–0291, FMCSA–2009–0303, FMCSA–2010–0372, FMCSA–2010–0385, FMCSA–2011–0102, FMCSA–2011–0124, FMCSA–2011–0140, FMCSA–2011–0275, FMCSA–2011–0299, FMCSA–2011–0324, FMCSA–2011–0325, FMCSA–2011–0365, FMCSA–2011–0366, FMCSA–2011–0378, FMCSA–2011–0379, FMCSA–2011–0380, FMCSA–2011–26690, FMCSA–2012–0279, FMCSA–2012–0338, FMCSA–2013–0022, FMCSA–2013–0026, FMCSA–2013–0027, FMCSA–2013–0028, FMCSA–2013–0165, FMCSA–2013–0166, FMCSA–2013–0167, FMCSA–2013–0168, FMCSA–2013–0169, FMCSA–2013–0170, FMCSA–2013–0174, FMCSA–2014–0002, FMCSA–2014–0003, FMCSA–2014–0004, FMCSA–2014–0010, FMCSA–2014–0296, FMCSA–2014–0298; FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0052, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0056, FMCSA–2015–0070, FMCSA–2015–0071, FMCSA–2015–0072, FMCSA–2015–0344, FMCSA–2015–0345, FMCSA–2015–0347, FMCSA–2015–0348, FMCSA–2015–0350, FMCSA–2015–0351, FMCSA–2016–0024, FMCSA–2016–0033, FMCSA–2016–0209, FMCSA–2016–0377, FMCSA–2017–0017, FMCSA–2017–0019, FMCSA–2017–0024, FMCSA–2017–0026, FMCSA–2017–0028, FMCSA–2018–0006, FMCSA–2018–0007, FMCSA–2018–0008, FMCSA–2018–0010, FMCSA–2018–0012, FMCSA–2019–0008, FMCSA–2019–0009, FMCSA–2019–0010, FMCSA–2019–0013, FMCSA–2019–0015, FMCSA–2019–0017, FMCSA–2019–0018, FMCSA–2019–0019, FMCSA–2020–0005, or FMCSA–2020–0006 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–1998–4334, FMCSA–1999–6156, FMCSA–1999–6480, FMCSA–2001–10578, FMCSA–2002–11714, FMCSA–2002–12844, FMCSA–2003–15892, FMCSA–2003–16564, FMCSA–2004–17984, FMCSA–2004–18885, FMCSA–2005–21254, FMCSA–2005–21711, FMCSA–2005–22194, FMCSA–2005–22727, FMCSA–2005–23238, FMCSA–2006–24015, FMCSA–2006–24783, FMCSA–2007–0017, FMCSA–2007–27897, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0266, FMCSA–2008–0292, FMCSA–2009–0011, FMCSA–2009–0154, FMCSA–2009–0206, FMCSA–2009–0291, FMCSA–2009–0303, FMCSA–2010–0372, FMCSA–2010–0385, FMCSA–2011–0102, FMCSA–2011–0124, FMCSA–2011–0140, FMCSA–2011–0275, FMCSA–2011–0299, FMCSA–2011–0324, FMCSA–2011–0325, FMCSA–2011–0365, FMCSA–2011–0366, FMCSA–2011–0378, FMCSA–2011–0379, FMCSA–2011–0380, FMCSA–2011–26690, FMCSA–2012–0279, FMCSA–2012–0338, FMCSA–2013–0022, FMCSA–2013–0026, FMCSA–2013–0027, FMCSA–2013–0028, FMCSA–2013–0165, FMCSA–2013–0166, FMCSA–2013–0167, FMCSA–2013–0168, FMCSA–2013–0169, FMCSA–2013–0170, FMCSA–2013–0174, FMCSA–2014–0002, FMCSA–2014–0003, FMCSA–2014–0004, FMCSA–2014–0010, FMCSA–2014–0296, FMCSA–2014–0298; FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0052, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0056, FMCSA–2015–0070, FMCSA–2015–0071, FMCSA–2015–0072, FMCSA–2015–0344, FMCSA–2015–0345, FMCSA–2015–0347, FMCSA–2015–0348, FMCSA–2015–0350, FMCSA–2015–0351, FMCSA–2016–0024, FMCSA–2016–0033, FMCSA–2016–0209, FMCSA–2016–0377, FMCSA–2017–0017, FMCSA–2017–0019, FMCSA–2017–0024, FMCSA–2017–0026, FMCSA–2017–0028, FMCSA–2018–0006, FMCSA–2018–0007, FMCSA–2018–0008, FMCSA–2018–0010, FMCSA–2018–0012, FMCSA–2019–0008, FMCSA–2019–0009, FMCSA–2019–0010, FMCSA–2019–0013, FMCSA–2019–0015, FMCSA–2019–0017, FMCSA–2019–0018, FMCSA–2019–0019, FMCSA–2020–0005, or FMCSA–2020–0006 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 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a

level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

The 224 individuals listed in this notice have requested renewal of their exemptions from the vision standard in § 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 224 applicants has satisfied the renewal conditions for obtaining an exemption from the vision standard (see 63 FR 66227; 64 FR 16520; 64 FR 54948; 64 FR 68195; 65 FR 159; 65 FR 20251; 66 FR 53826; 66 FR 66966; 66 FR 66969; 67 FR 15662; 67 FR 17102; 67 FR 37907; 67 FR 68719; 68 FR 2629; 68 FR 52811; 68 FR 61860; 68 FR 69432; 68 FR 69434; 68 FR 74699; 69 FR 10503; 69 FR 17267; 69 FR 26206; 69 FR 33997; 69 FR 53493; 69 FR 61292; 69 FR 62741; 69 FR 71100; 70 FR 30999; 70 FR 46567; 70 FR 48797; 70 FR 48798; 70 FR 48799; 70 FR 48800; 70 FR 53412; 70 FR 57353; 70 FR 61165; 70 FR 71884; 70 FR 72689; 70 FR 74102; 71 FR 644; 71 FR 4632; 71 FR 5105; 71 FR 6829; 71 FR 14566; 71 FR 16410; 71 FR 19600; 71 FR 26602; 71 FR 30227; 71 FR 32183; 71 FR 41310; 71 FR 55820; 71 FR 62147; 72 FR 1053; 72 FR 39879; 72 FR 40359; 72 FR 52419; 72 FR 52422; 72 FR 58359; 72 FR 62897; 72 FR 67340; 72 FR 71993; 72 FR 71995; 72 FR 71998; 73 FR 1395; 73 FR 5259; 73 FR 11989; 73 FR 15254; 73 FR 15567; 73 FR 27014; 73 FR 27015; 73 FR 27017; 73 FR 38497; 73 FR 46973; 73 FR 48273; 73 FR 51689; 73 FR 54888; 73 FR 60398; 73 FR 61922; 73 FR 61925; 73 FR 63047; 73 FR 65009; 73 FR 74565; 73 FR 76440; 74 FR 19270; 74 FR 34074; 74 FR 37295; 74 FR 43217; 74 FR 48343; 74 FR 49069; 74 FR 53581; 74 FR 57551; 74 FR 60021; 74 FR 60022; 74 FR 64124; 74 FR 65842; 74 FR 65845; 74 FR 65847; 75 FR 1451; 75 FR 4623; 75 FR 9480; 75 FR 9482; 75 FR 13653; 75 FR 19674; 75 FR 20881; 75 FR 22176; 75 FR 27621; 75 FR 27622; 75 FR 44051; 75 FR 50799; 75 FR 64396; 75 FR 77942; 75 FR 77949; 76 FR 4413; 76 FR 5425; 76 FR 7894; 76 FR 17483; 76 FR 20078; 76 FR 25762; 76 FR 29022; 76 FR 29026; 76 FR 34136; 76 FR 37169; 76 FR 44082; 76 FR 44653; 76 FR 50318; 76 FR 55463; 76 FR 64164; 76 FR 64169; 76 FR 64171; 76 FR 66123; 76 FR 70210; 76 FR 70212; 76 FR 73769; 76 FR 75942; 76 FR 75943; 76 FR 78728; 76 FR 78729; 76 FR 79760; 77 FR 539; 77 FR 543; 77 FR 545; 77 FR 3547; 77 FR 3552; 77 FR 5874; 77 FR 7657; 77 FR 10604; 77 FR 10608; 77 FR 13691; 77 FR 15184; 77 FR 17107; 77 FR 17108; 77 FR 17115; 77 FR 17117; 77 FR 19749; 77 FR 22059; 77 FR 22838; 77 FR 23797; 77 FR 26816; 77 FR 27849; 77 FR 27850; 77 FR 46153; 77 FR 60008; 77 FR 64582; 77 FR 68202; 77 FR 71671; 77 FR 74731; 78 FR 10250; 78 FR 12811; 78 FR 12815; 78 FR 16762; 78 FR 22598; 78 FR 22602; 78 FR 24300; 78 FR 24798; 78 FR 27281; 78 FR 30954; 78 FR 37274; 78 FR 41188; 78 FR 46407; 78 FR 47818; 78 FR 51268; 78 FR 62935; 78 FR 63302; 78 FR 63307; 78 FR 64271; 78 FR 64274; 78 FR 65032; 78 FR 66099; 78 FR 67452; 78 FR 67454; 78 FR 67462; 78 FR 68137; 78 FR 76395; 78 FR 76704; 78 FR 76705; 78 FR 76707; 78 FR 77778; 78 FR 77780; 78 FR 77782; 78 FR 78475; 78 FR 78477; 79 FR 1908; 79 FR 2247; 79 FR 2748; 79 FR 3919; 79 FR 4531; 79 FR 4803; 79 FR 6993; 79 FR 10606; 79 FR 10607; 79 FR 10610; 79 FR 10619; 79 FR 12565; 79 FR 13085; 79 FR 14333; 79 FR 14571; 79 FR 15794; 79 FR 17641; 79 FR 17642; 79 FR 17643; 79 FR 18390; 79 FR 18391; 79 FR 18392; 79 FR 21996; 79 FR 22003; 79 FR 23797; 79 FR 28588; 79 FR 29498; 79 FR 46153; 79 FR 51643; 79 FR 53708; 79 FR 56104; 79 FR 58856; 79 FR 64001; 79 FR 65759; 79 FR 65760; 79 FR 69985; 79 FR 72754; 80 FR 7679; 80 FR 8927; 80 FR 14220; 80 FR 16500; 80 FR 18696; 80 FR 26139; 80 FR 26320; 80 FR 31635; 80 FR 31636; 80 FR 33007; 80 FR 35699; 80 FR 36395; 80 FR 36398; 80 FR 37718; 80 FR 40122; 80 FR 41547; 80 FR 44188; 80 FR 48404; 80 FR 48409; 80 FR 48413; 80 FR 50917; 80 FR 59225; 80 FR 59230; 80 FR 62161; 80 FR 62163; 80 FR 63869; 80 FR 67472; 80 FR 67476; 80 FR 67481; 80 FR 70060; 80 FR 76345; 80 FR 79414; 80 FR 80443; 81 FR 1284; 81 FR 1474; 81 FR 6573; 81 FR 11642; 81 FR 14190; 81 FR 15401; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 21655; 81 FR 28136; 81 FR 28138; 81 FR 39100; 81 FR 44680; 81 FR 48493; 81 FR 52516; 81 FR 59266; 81 FR 60117; 81 FR 66718; 81 FR 70251; 81 FR 74494; 81 FR 90050; 81 FR 91239; 81 FR 96165; 81 FR 96178; 81 FR 96180; 82 FR 13045; 82 FR 15277; 82 FR 18949; 82 FR 18956; 82 FR 20962; 82 FR 22379; 82 FR 23712; 82 FR 32919; 82 FR 33542; 82 FR 35043; 82 FR 37499; 82 FR 47295; 82 FR 47312; 82 FR 47313; 82 FR 58262; 83 FR 2306; 83 FR 2311; 83 FR 3861; 83 FR 4537; 83 FR 6681; 83 FR 6694; 83 FR 6919; 83 FR 6922; 83 FR 6925; 83 FR 15195; 83 FR 15214; 83 FR 15216; 83 FR 15232; 83 FR 18644; 83 FR 18648; 83 FR 24146; 83 FR 24151; 83 FR 24571; 83 FR 28320; 83 FR 28323; 83 FR 28328; 83 FR 28342; 83 FR 45749; 83 FR 53724; 84 FR 2314; 84 FR 2326; 84 FR 12665; 84 FR 16320; 84 FR 16333; 84 FR 21397; 84 FR 21401; 84 FR 23629; 84 FR 27688; 84 FR 28619; 84 FR 46088; 84 FR 47038; 84 FR 47047; 84 FR 47056; 84 FR 47057; 84 FR 52160; 84 FR 52166; 84 FR 58437; 84 FR 58441; 84 FR 58448; 84 FR 66442; 84 FR 66444; 84 FR 68288; 84 FR 69814; 84 FR 72114; 84 FR 72120; 85 FR 4764; 85 FR 4769; 85 FR 6993; 85 FR 6997; 85 FR 8334; 85 FR 9932; 85 FR 12959; 85 FR 19220; 85 FR 19224; 85 FR 21919; 85 FR 33784). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at § 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in

the month of March and are discussed below. As of March 2, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 127 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 66227; 64 FR 16520; 64 FR 54948; 65 FR 159; 66 FR 53826; 66 FR 66966; 66 FR 66969; 68 FR 52811; 68 FR 61860; 68 FR 69432; 68 FR 69434; 69 FR 33997; 69 FR 53493; 69 FR 61292; 69 FR 62741; 70 FR 30999; 70 FR 46567; 70 FR 48797; 70 FR 48798; 70 FR 48799; 70 FR 48800; 70 FR 53412; 70 FR 57353; 70 FR 61165; 70 FR 72689; 70 FR 74102; 71 FR 644; 71 FR 14566; 71 FR 30227; 71 FR 32183; 71 FR 41310; 71 FR 55820; 71 FR 62147; 71 FR 62147; 72 FR 39879; 72 FR 40359; 72 FR 52419; 72 FR 58359; 72 FR 62897; 72 FR 67340; 72 FR 71993; 72 FR 71995; 72 FR 71998; 73 FR 1395; 73 FR 5259; 73 FR 27014; 73 FR 38497; 73 FR 46973; 73 FR 48273; 73 FR 51689; 73 FR 54888; 73 FR 60398; 73 FR 61922; 73 FR 61925; 73 FR 63047; 73 FR 65009; 73 FR 74565; 74 FR 19270; 74 FR 34074; 74 FR 37295; 74 FR 43217; 74 FR 48343; 74 FR 53581; 74 FR 57551; 74 FR 60021; 74 FR 60022; 74 FR 64124; 74 FR 65842; 74 FR 65845; 74 FR 65847; 75 FR 1451; 75 FR 4623; 75 FR 9482; 75 FR 44051; 75 FR 50799; 75 FR 64396; 75 FR 77942; 75 FR 77949; 76 FR 4413; 76 FR 5425; 76 FR 7894; 76 FR 17483; 76 FR 20078; 76 FR 25762; 76 FR 29022; 76 FR 29026; 76 FR 34136; 76 FR 37169; 76 FR 44082; 76 FR 44653; 76 FR 50318; 76 FR 55463; 76 FR 64169; 76 FR 64171; 76 FR 66123; 76 FR 70210; 76 FR 70212; 76 FR 73769; 76 FR 75942; 76 FR 75943; 76 FR 78728; 76 FR 78729; 76 FR 79760; 77 FR 539; 77 FR 543; 77 FR 545; 77 FR 3547; 77 FR 10604; 77 FR 10608; 77 FR 46153; 77 FR 60008; 77 FR 64582; 77 FR 68202; 77 FR 71671; 77 FR 74731; 78 FR 10250; 78 FR 12811; 78 FR 12815; 78 FR 16762; 78 FR 22598; 78 FR 22602; 78 FR 24300; 78 FR 24798; 78 FR 27281; 78 FR 30954; 78 FR 37274; 78 FR 41188; 78 FR 46407; 78 FR 47818; 78 FR 51268; 78 FR 62935; 78 FR 63302; 78 FR 63307; 78 FR 64271; 78 FR 64274; 78 FR 65032; 78 FR 66099; 78 FR 67452; 78 FR 67454; 78 FR 67462; 78 FR 68137; 78 FR 76395; 78 FR 76704; 78 FR 76705; 78 FR 76707; 78 FR 77778; 78 FR 77780; 78 FR 77782; 78 FR 78475; 78 FR 78477; 79 FR 2247; 79 FR 2748; 79 FR 3919; 79 FR 4531; 79 FR 4803; 79 FR 6993; 79 FR 10619; 79 FR 18392; 79 FR 29498; 79 FR 46153; 79 FR 51643; 79 FR 53708; 79 FR 56104; 79 FR 58856; 79 FR 64001; 79 FR 65759; 79 FR 65760; 79 FR 69985; 79 FR 72754; 80 FR 7679; 80 FR 8927; 80 FR 14220; 80 FR 16500; 80 FR 18696; 80 FR 26139; 80 FR 26320; 80 FR 31635; 80 FR 31636; 80 FR 33007; 80 FR 35699; 80 FR 36395; 80 FR 36398; 80 FR 37718; 80 FR 40122; 80 FR 41547; 80 FR 44188; 80 FR 48404; 80 FR 48409; 80 FR 48413; 80 FR 50917; 80 FR 59225; 80 FR 59230; 80 FR 62161; 80 FR 62163; 80 FR 63869; 80 FR 67472; 80 FR 67476; 80 FR 67481; 80 FR 70060; 80 FR 76345; 80 FR 79414; 80 FR 80443; 81 FR 1284; 81 FR 11642; 81 FR 15401; 81 FR 15404; 81 FR 16265; 81 FR 20433; 81 FR 44680; 81 FR 59266; 81 FR 60117; 81 FR 70251; 81 FR 74494; 81 FR 90050; 81 FR 91239; 81 FR 96165; 81 FR 96178; 81 FR 96180; 82 FR 13045; 82 FR 15277; 82 FR 18949; 82 FR 18956; 82 FR 20962; 82 FR 22379; 82 FR 23712; 82 FR 32919; 82 FR 33542; 82 FR 35043; 82 FR 37499; 82 FR 47295; 82 FR 47312; 82 FR 47313; 82 FR 58262; 83 FR 2306; 83 FR 2311; 83 FR 3861; 83 FR 4537; 83 FR 6919; 83 FR 6922; 83 FR 6925; 83 FR 15232; 83 FR 18648; 83 FR 53724; 84 FR 2314; 84 FR 2326; 84 FR 12665; 84 FR 16320; 84 FR 16333; 84 FR 21397; 84 FR 21401; 84 FR 23629; 84 FR 27688; 84 FR 28619; 84 FR 46088; 84 FR 47038; 84 FR 47047; 84 FR 47056; 84 FR 47057; 84 FR 52160; 84 FR 52166; 84 FR 58437; 84 FR 58441; 84 FR 58448; 84 FR 66442; 84 FR 66444; 84 FR 68288; 84 FR 69814; 84 FR 72114; 84 FR 72120; 85 FR 4764; 85 FR 4769; 85 FR 6993; 85 FR 8334; 85 FR 9932):

Juan D. Adame (TX)
Gary R. Andersen (NE)
Garry A. Baker (OH)
Joel D. Barchard (MA)
Stephen W. Barrows (OR)
Theodore N. Belcher (VA)
Steven A. Blinco (MT)
Rickie L. Boone (NC)
Jerry A. Bordelon (LA)
David B. Bowman (PA)
Walter A. Breeze (OH)
Eugene R. Briggs (MI)
John M. Brown (KY)
Raymond K. Brubaker (WA)
Larry W. Buchanan (NM)
Cris D. Bush (TN)
James E. Byrnes (MO)
Joseph A. Cardazone (NJ)
Henry L. Chastain (GA)
Lesco R. Chubb (GA)
Joseph A. Clark (WI)
Stewart K. Clayton (TX)
Donald O. Clopton (AL)
Joseph Coelho (RI)
James J. Coffield (NM)
Marion J. Coleman, Jr. (KY)
Adan Cortes-Juarez (WA)
Zackary C. Crichton (WY)
Kenneth D. Daniels (PA)
Deurice K. Dean (MD)
John A. DeVos (VT)
Bradley R. Dishman (KY)
James J. Doan (PA)
Bruce J. Dowd (CT)
Micheal H. Eheler (WI)
David E. Evans (NC)
Mark A. Farnsley (IN)
James P. Fitzgerald (MA)
Clarence N. Florey, Jr. (PA)
Ronald W. Garner (WA)
Darryl W. Hardy (AL)
Dewayne E. Harms (IL)
John M. Harvey (TX)
Steven M. Hoover (IL)
Jesus J. Huerta (NV)
Amos W. Hulsey (AL)
Darryl H. Johnson (WV)
Freddie H. Johnson (ID)
David B. Jones (FL)
Rufus L. Jones (NJ)
Alfred Keehn (AZ)
Karen L. Kelly (DE)
Theodore J. Kenyon (VT)
Dobbin L. Kirkbride (OH)
Robert W. Kleve (IA)
Thomas Korycki (NJ)
Larry G. Kreke (IL)
Rocky J. Lachney (LA)
Adam S. Larson (CO)
Chase L. Larson (WA)
Richard L. Loeffelholz (WI)
Leonardo Lopez (NE)
Anthony Luciano (CT)
Robert J. MacInnis (MA)
Rodolfo Martinez (TX)
Christopher V. May (GA)
Robert E. Mayers (MN)
Dean A. Maystead (MI)
Colin D. McGregor (WI)
Kevin D. Mendoza (WA)
Gregory G. Miller (OH)
James G. Mitchell (AL)
Rashawn L. Morris (VA)
Kenneth R. Murphy (WA)
Brian T. Nelson (MN)
James P. O'Berry (GA)
Steven D. O'Donnell (NJ)
Charles D. Oestreich (MN)
Carlos A. Osollo (NM)
William K. Otwell (LA)
Anthony D. Ovitt (VT)
Gerardo A. Padron (FL)
Daniel F. Perez (CA)
Joe M. Perez (TX)
Nathan Pettis (FL)
Johnny L. Powell (MD)
Kerry R. Powers (IN)
Kevin L. Quastad (IA)
Jason R. Raml (SD)
Branden J. Ramos (CA)
David J. Reed (TX)
Robert D. Reeder (MI)
Martin S. Reese (CA)
Christopher M. Rivera (NM)
Charles J. Rowsey (NC)
Carl W. Russell (OK)
Manuel H. Sanchez (TX)
Robert E. Sanders (PA)
Phillip D. Satterfield (GA)
Justin E. Schwada (MO)
Jarrod R. Seirer (KS)
Jeffery T. Skaggs (IA)
James J. Slemmer (PA)
John R. Snyder (WA)
Efren J. Soliz (NM)
Juan E. Sotero (FL)

Mark R. Stevens (IA)
Dale L. Stewart (MI)
Kenneth C. Stump (FL)
Sukru Tamirci (NY)
Robert Thomas (PA)
James L. Tinsley, Jr. (VA)
George E. Todd (WV)
Rene R. Trachsel (OR)
Stanley W. Tyler, Jr. (NC)
Victor H. Vera (TX)
Daniel R. Viscaya (NC)
John H. Voigts (AZ)
Gary D. Vollertsen (CO)
David L. Von Hagen (IA)
James H. Wallace, Sr. (FL)
Stephen H. Ward (MO)
James A. Welch (NH)
Richard A. Westfall (OH)
Lorenzo A. Williams (DE)
Reginald J. Wuethrich (IL)
Chadwick L. Wyatt (NC)

The drivers were included in docket numbers FMCSA–1998–4334; FMCSA–1999–6156; FMCSA–2001–10578; FMCSA–2003–15892; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0017; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2008–0266; FMCSA–2008–0292; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0303; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0102; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0299; FMCSA–2011–0325; FMCSA–2011–26690; FMCSA–2012–0279; FMCSA–2012–0338; FMCSA–2013–0022; FMCSA–2013–0026; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2014–0004; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0071; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2016–0033; FMCSA–2016–0209; FMCSA–2016–0377; FMCSA–2017–0017; FMCSA–2017–0019; FMCSA–2017–0024; FMCSA–2017–0026; FMCSA–2019–0008; FMCSA–2019–0009; FMCSA–2019–0010; FMCSA–2019–0013; FMCSA–2019–0015; FMCSA–2019–0017; FMCSA–2019–0018; FMCSA–2019–0019. Their exemptions are applicable as of March 2, 2022 and will expire on March 2, 2024.

As of March 7, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 3552; 77 FR 13691; 79 FR 12565; 81 FR 20433; 83 FR 6919; 85 FR 6993):

Samuel V. Holder (IL)

The driver was included in docket number FMCSA–2011–0365. The exemption is applicable as of March 7, 2022 and will expire on March 7, 2024.

As of March 10, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following six individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 6573; 81 FR 28136; 83 FR 6919; 85 FR 6993; 85 FR 6997; 85 FR 19220):

Thomas M. Bowman (OH)
Robert W. Fawcett (PA)
Lester Johnson (GA)
Dennis C. Rokes (IA)
Brian Wayne Roughton (MO)
Juan Santay-Ajanel (DE)

The drivers were included in docket numbers FMCSA–2015–0348; and FMCSA–2020–0005. Their exemptions are applicable as of March 10, 2022 and will expire on March 10, 2024.

As of March 13, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 1908; 79 FR 14333; 81 FR 20433; 83 FR 6919; 85 FR 6993):

Justin W. Demarchi (OH); David G. Henry (TX); and Jason C. Sadler (KY)

The drivers were included in docket number FMCSA–2013–0174. Their exemptions are applicable as of March 13, 2022 and will expire on March 13, 2024.

As of March 17, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following six individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (83 FR 6681; 83 FR 6694; 83 FR 24151; 83 FR 24571; 85 FR 6993):

Kenneth W. Blake (KS)
James M. Ferry (OH)
Jacob A. Hehr (IL)
Marvin Ronald Knecht (ND)
Martin Munoz (TX)
Robert Lee Redding (NC)

The drivers were included in docket numbers FMCSA–2017–0028; and FMCSA–2018–0006. Their exemptions are applicable as of March 17, 2022 and will expire on March 17, 2024.

As of March 22, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 81 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 68195; 65 FR 20251; 67 FR 15662; 67 FR 17102; 67 FR 37907; 67 FR 68719; 68 FR 2629; 68 FR 74699; 69 FR 10503; 69 FR 17267; 69 FR 26206; 69 FR 71100; 70 FR 71884; 71 FR 4632; 71 FR 5105; 71 FR 6829; 71 FR 16410; 71 FR 19600; 71 FR 26602; 72 FR 1053; 72 FR 39879; 72 FR 52422; 73 FR 5259; 73 FR 11989; 73 FR 15254; 73 FR 15567; 73 FR 27014; 73 FR 27015; 73 FR 27017; 73 FR 76440; 74 FR 49069; 74 FR 65842; 75 FR 1451; 75 FR 9480; 75 FR 9482; 75 FR 13653; 75 FR 19674; 75 FR 20881; 75 FR 22176; 75 FR 27621; 75 FR 27622; 76 FR 64164; 76 FR 75942; 77 FR 545; 77 FR 3547; 77 FR 5874; 77 FR 7657; 77 FR 10604; 77 FR 15184; 77 FR 17107; 77 FR 17108; 77 FR 17115; 77 FR 17117; 77 FR 19749; 77 FR 22059; 77 FR 22838; 77 FR 23797; 77 FR 26816; 77 FR 27849; 77 FR 27850; 78 FR 64271; 78 FR 64274; 78 FR 67452; 78 FR 77778; 78 FR 78475; 79 FR 1908; 79 FR 2247; 79 FR 2748; 79 FR 10606; 79 FR 10607; 79 FR 10610; 79 FR 10619; 79 FR 13085; 79 FR 14333; 79 FR 14571; 79 FR 15794; 79 FR 17641; 79 FR 17642; 79 FR 17643; 79 FR 18390; 79 FR 18391; 79 FR 18392; 79 FR 21996; 79 FR 22003; 79 FR 23797; 79 FR 28588; 79 FR 29498; 80 FR 67476; 80 FR 67481; 80 FR 70060; 80 FR 76345; 80 FR 79414; 80 FR 80443; 81 FR 1474; 81 FR 14190; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 21655; 81 FR 28138; 81 FR 39100; 81 FR 44680; 81 FR 48493; 81 FR 52516; 81 FR 60117; 81 FR 66718; 81 FR 91239; 83 FR 2311; 83 FR 6681; 83 FR 6919; 83 FR 6922; 83 FR 6925; 83 FR 15195; 83 FR 15214; 83 FR 15216; 83 FR 18644; 83 FR 18648; 83 FR 24146; 83 FR 24151; 83 FR 28320; 83 FR 28323; 83 FR 28328; 83 FR 28342; 83 FR 45749; 85 FR 6993; 85 FR 12959; 85 FR 19224; 85 FR 21919; 85 FR 33784):

Thomas R. Abbott (TN)
Zachary A. Abbotts (CT)
Ahmed Abukhatwa (MI)
Ronald C. Ashley (GA)
James E. Baker (OH)
Terry M. Baldwin (PA)
Aaron D. Barnett (IA)
Dmitriy D. Bayda (WA)
Thomas Benavidez, Jr. (ID)
Donald J. Bierwirth, Jr. (CT)
Lee R. Boykin (TX)
Robert L. Brauns (IA)
Joe W. Brewer (SC)
James A. Champion (WA)

Loren D. Chapman (MN)
Dana L. Colberg (OR)
Walter F. Crean, III (CT)
William T. Cummins (KY)
James T. Curtis (NM)
Jim L. Davis (NM)
Clifford W. Doran, Jr. (NC)
Jason P. Dostal (IN)
John C. Duncan (FL)
James W. Ellis, 4th (NJ)
Spencer L. Goard (KY)
Danny R. Gray (OK)
Glenn C. Grimm (NJ)
Hugo N. Gutierrez (IN)
Keith J. Haaf (VA)
Ethan A. Hale (KY)
Thomas R. Hedden (IL)
Trevor M. Hilton (IL)
Neil W. Jennings (MO)
Robert E. Johnston, Jr. (WA)
William J. Kanaris (NY)
James D. Kessler (SD)
Matthew J. Konecki (MT)
Richard R. Krafczynski (PA)
Jeffrey T. Landry (NC)
Robert G. Lanning (VA)
Gary D. Larson (NE)
Paul K. Leger (NH)
Earl E. Martin (VA)
Herman Martinez (NM)
Martin L. Mayes (GA)
Trent C. McCain (KS)
David M. McCarty (OR)
Dale A. McCoy (ME)
Cole W. McLaughlin (SD)
Rodney J. McMorran (IA)
Daniel A. McNabb, Jr. (KS)
Daniel I. Miller (PA)
Darin P. Milton (TN)
Robert Mollicone (FL)
Russell L. Moyers, Sr. (WV)
Robert L. Murray (IL)
Millard F. Neace II (WV)
Michael Nichols (GA)
Harold D. Pressley (TX)
Erik M. Rice (TX)
Douglas L. Riddell (CA)
John M. Riley (AL)
Gilbert M. Rosas (AZ)
Donald P. Ruckinger (PA)
Michael B. Sauseda (IL)
Tatum R. Schmidt (IA)
Harry J. Scholl (PA)
Kim A. Shaffer (PA)
Jeffery A. Sheets (AR)
Colby T. Smith (UT)
Aaron S. Taylor (WI)
Michael A. Terry (IN)
Glenn R. Theis (MN)
Hany A. Wagieh (NJ)
Eddie Walker (NC)
Norman J. Watson (NC)
Charles T. Whitehead (NC)
Ronald D. Wilson (KY)
Elmer F. Winters (NC)
Trent Wipf (SD)
Kevin Young (NJ)

The drivers were included in docket numbers FMCSA–1999–6480; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–16564; FMCSA–2005–22727; FMCSA–2005–23238; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2011–0275; FMCSA–2011–0324; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2013–0167; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2015–0347; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010; FMCSA–2018–0012; and FMCSA–2020–0006. Their exemptions are applicable as of March 22, 2022 and will expire on March 22, 2024.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified medical examiner (ME), as defined by § 390.5, who attests that the driver is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification if he/her is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 224 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in § 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–04286 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–2000–7165; FMCSA–2001–10578; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2006–26653; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2009–0303; FMCSA–2010–0354; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0010; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0275; FMCSA–2011–0299; FMCSA–2011–0325; FMCSA–2011–0380; FMCSA–2013–0025; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174; FMCSA–2014–0300; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2015–0048; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0071; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2015–0347; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2016–0377; FMCSA–2017–0017; FMCSA–2017–0018; FMCSA–2017–0022; FMCSA–2017–0023; FMCSA–2017–0026; FMCSA–2018–0014; FMCSA–2019–0005; FMCSA–2019–0009; FMCSA–2019–0011; FMCSA–2019–0013; FMCSA–2019–0014; FMCSA–2019–0015; FMCSA–2020–0018]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 91 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the

dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov,* insert the docket number, FMCSA–1999–5748, FMCSA–2000–7165, FMCSA–2001–10578, FMCSA–2003–15892, FMCSA–2005–20560, FMCSA–2005–21711, FMCSA–2005–22194, FMCSA–2005–22727, FMCSA–2006–26653, FMCSA–2007–27897, FMCSA–2008–0021, FMCSA–2009–0154, FMCSA–2009–0206, FMCSA–2009–0303, FMCSA–2010–0354, FMCSA–2010–0372, FMCSA–2010–0385, FMCSA–2011–0010, FMCSA–2011–0024, FMCSA–2011–0092, FMCSA–2011–0275, FMCSA–2011–0299, FMCSA–2011–0325, FMCSA–2011–0380, FMCSA–2013–0025, FMCSA–2013–0029, FMCSA–2013–0165, FMCSA–2013–0166, FMCSA–2013–0168, FMCSA–2013–0169, FMCSA–2013–0170, FMCSA–2013–0174, FMCSA–2014–0300, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2015–0048, FMCSA–2015–0055, FMCSA–2015–0056, FMCSA–2015–0071, FMCSA–2015–0072, FMCSA–2015–0344, FMCSA–2015–0345, FMCSA–2015–0347, FMCSA–2016–0208, FMCSA–2016–0212, FMCSA–2016–0377, FMCSA–2017–0017, FMCSA–2017–0018, FMCSA–2017–0022, FMCSA–2017–0023, FMCSA–2017–0026, FMCSA–2018–0014, FMCSA–2019–0005, FMCSA–2019–0009, FMCSA–2019–0011, FMCSA–2019–0013, FMCSA–2019–0014, FMCSA–2019–0015, or FMCSA–2020–0018 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On January 10, 2022, FMCSA published a notice announcing its decision to renew exemptions for 91 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (87 FR 1250). The public comment period ended on February 9, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 91 renewal exemption applications and comments received, FMCSA confirms its decision to exempt the following drivers from the vision requirement in § 391.41(b)(10).

As of February 9, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 85 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 40404; 64 FR 66962; 65 FR 33406; 65 FR 57234; 66 FR 53826; 66 FR 63289; 66 FR 66966; 68 FR 13360; 68 FR 52811; 68 FR 61860; 68 FR 64944; 68 FR 69434; 70 FR 12265; 70 FR 17504; 70 FR 30997; 70 FR 48797; 70 FR 53412; 70 FR 57353; 70 FR 61165; 70 FR 61493; 70 FR 67776; 70 FR 71884; 70 FR 72689; 70 FR 74102; 71 FR 4632; 72 FR 8417; 72 FR 27624; 72 FR 36099; 72 FR 39879; 72 FR 40362; 72 FR 52419; 72 FR 62897; 72 FR 64273; 73 FR 5259; 73 FR 15567; 73 FR 27015; 74 FR 19270; 74 FR 34394; 74 FR 37295; 74 FR 41971; 74 FR 43217; 74 FR 48343; 74 FR 49069; 74 FR 53581; 74 FR 57551; 74 FR 60021; 74 FR 60022; 74 FR 62632; 75 FR 1451; 75 FR 4623; 75 FR 19674; 75 FR 72863; 75 FR 77492; 76 FR 2190; 76 FR 5425; 76 FR 7894; 76 FR 9856; 76 FR 17481; 76 FR 20076; 76 FR 20078; 76 FR 25762; 76 FR 25766; 76 FR 2812576 FR 37885; 76 FR 53708; 76 FR 54530; 76 FR 62143; 76 FR 64164; 76 FR 64171; 76 FR 66123; 76 FR 70210; 76 FR 70215; 76 FR 73769; 76 FR 75940; 76 FR 75942; 77 FR 545; 77 FR 3547; 77 FR 3554; 77 FR 17109; 77 FR 23797; 77 FR 27845; 77 FR 74273; 78 FR 800; 78 FR 12813; 78 FR 16762; 78 FR 20376; 78 FR 24300; 78 FR 34141; 78 FR 34143; 78 FR 37270; 78 FR 47818; 78 FR 52602; 78 FR 62935; 78 FR 63302; 78 FR 63307; 78 FR 64274; 78 FR 64280; 78 FR 66099; 78 FR 67452; 78 FR 67454; 78 FR 67460; 78 FR 68137; 78 FR 76395; 78 FR 77778; 78 FR 77780; 78 FR 77782; 78 FR 78475; 78 FR 78477; 79 FR 2247; 79 FR 2248; 79 FR 3919; 79 FR 4803; 79 FR 23797; 79 FR 53708; 79 FR 73687; 80 FR 2473; 80 FR 3723; 80 FR 12248; 80 FR 14223; 80 FR 15863; 80 FR 18693; 80 FR 18696; 80 FR 26139; 80 FR 29149; 80 FR 29152; 80 FR 31635; 80 FR 31640; 80 FR 33011; 80 FR 37718; 80 FR 44188; 80 FR 48402; 80 FR 48409; 80 FR 49302; 80 FR 59225; 80 FR 59230; 80 FR 62161; 80 FR 63869; 80 FR 67472; 80 FR 67481; 80 FR 70060; 80 FR 76345; 80 FR 79414; 80 FR 80443; 81 FR 1284; 81 FR 11642; 81 FR 15401; 81 FR 16265; 81 FR 20435; 81 FR 44680; 81 FR 60117; 81 FR 70253; 81 FR 81230; 81 FR 86063; 81 FR 96165; 81 FR 96180; 81 FR 96191; 82 FR 12683; 82 FR 13045; 82 FR 13048; 82 FR 15277; 82 FR 18949; 82 FR 18956; 82 FR 20962; 82 FR 22379; 82 FR 24430; 82 FR 32919; 82 FR 33542; 82 FR 35050; 82 FR 37499; 82 FR 37504; 82 FR 43647; 82 FR 47309; 82 FR 47312; 83 FR 2289; 83 FR 2306; 83 FR 3861; 83 FR 4537; 83 FR 6922; 83 FR 6925; 83 FR 28325; 83 FR 33292; 83 FR 53724; 83 FR 54644; 84 FR 2326; 84 FR 10389; 84 FR 12665; 84 FR 16320; 84 FR 21393; 84 FR 21397; 84 FR 21401; 84 FR 23629; 84 FR 33801; 84 FR 46088; 84 FR 47045; 84 FR 47047; 84 FR 47050; 84 FR 47057; 84 FR 52160; 84 FR 52166;

84 FR 58437; 84 FR 58448; 84 FR 58450; 84 FR 58453; 84 FR 66442; 84 FR 66444; 84 FR 68288; 84 FR 69814; 85 FR 4764; 85 FR 4769; 85 FR 8334):

Dakota A. Albrecht (MN)
Cesar Avila (PA)
Ernest J. Bachman (PA)
Alex T. Balk (AZ)
Wayne Barker (OK)
Herbert R. Benner (ME)
Gary L. Best (MI)
Therron K. Billings (VA)
Kenneth L. Bowers, Jr. (MN)
Charles W. Bradley (SC)
Jerry D. Bridges (TX)
Brian E. Burrows (TX)
Michael D. Champion (VT)
Charles C. Chapman (NC)
Shawn T. Cobbs (MD)
William J. Corder (NC)
Aubrey R. Cordrey, Jr. (DE)
George R. Cornell (OH)
Roderick Croft (FL)
James W. Day (VA)
Sean J. Dornin (PA)
Cecil A. Evey (ID)
Elhadji M. Faye (CA)
Dan J. Feik (IL)
Mark A. Ferris (IA)
James E. Fix (SC)
Richard L. Gandee (OH)
Willie George (NY)
Jayme L. Gilbert (NY)
Mark T. Gileau (CT)
Jeffrey J. Graham (MI)
Christopher L. Granby (MI)
Britt A. Green (ND)
James A. Green (IL)
Donald A. Hall (NC)
Johnnie L. Hall (MD)
Keith N. Hall (UT)
Vashion E. Hammond (FL)
Louis M. Hankins (IL)
Robert D. Hattabaugh (AR)
Carl E. Hess (PA)
Frank E. Johnson, Jr. (FL)
David J. Kibble (PA)
John E. Kimmet, Jr. (WA)
Mark L. LeBlanc (MN)
David F. LeClerc (MN)
Ronnie R. Lockamy (NC)
John T. Mabry (FL)
Timothy R. McCullough (FL)
Cameron S. McMillen (NM)
Mark Meacham (NC)
David L. Menken (NY)
Molu H. Mohamed (OH)
Kenneth H. Morris (NC)
James Muldoon (NY)
James R. Murphy (NY)
Robert M. Murphy (NJ)
Al V. Nowviock (IL)
Robert M. Pickett II (MI)
Thomas Pizzurro (NY)
Christopher W. Proeschel (OH)
Andres Regalado (CA)
Kevin C. Rich (NC)
Thenon D. Ridley (TX)
Chris A. Ritenour (MI)
Steven L. Roberts (AR)
Berry A. Rodrigue (LA)
Angelo D. Rogers (AL)
Leo D. Roy (NH)
Ronald L. Roy (IL)
Ricky J. Sanderson (UT)
Bobby Sawyers (PA)
Jerry L. Schroder (IL)
Brandon L. Siebe (KY)
David A. Simpson (OH)
Roye T. Skelton (MS)
John B. Stiltner (KY)
Greg W. Story (NC)
Kolby W. Strickland (WA)
Scott C. Teich (MN)
Kendle F. Waggle, Jr. (IN)
Andrew L. Walker (MN)
James J. Walsh (NH)
Dennis E. White (PA)
Willie R. White (NV)

The drivers were included in docket numbers FMCSA–1999–5748; FMCSA–2000–7165; FMCSA–2001–10578; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2006–26653; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2009–0303; FMCSA–2010–0354; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0010; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0275; FMCSA–2011–0299; FMCSA–2011–0380; FMCSA–2013–0025; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0166; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2014–0300; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2015–0048; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0071; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2015–0345; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2016–0377; FMCSA–2017–0017; FMCSA–2017–0018; FMCSA–2017–0022; FMCSA–2017–0023; FMCSA–2018–0014; FMCSA–2019–0005; FMCSA–2019–0009; FMCSA–2019–0011; FMCSA–2019–0013; FMCSA–2019–0014; FMCSA–2019–0015; FMCSA–2020–0018. Their exemptions were applicable as of February 9, 2022 and will expire on February 9, 2024.

As of February 12, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 1474; 81 FR 48493; 83 FR 6925; 85 FR 4769):

Aaron D. Tillman (DE)

The driver was included in docket number FMCSA–2015–0347. The exemption was applicable as of February 12, 2022 and will expire on February 12, 2024.

As of February 16, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (83 FR 2311; 83 FR 18648; 85 FR 4769):

Ryan J. Plank (PA); Aaron R. Rupe (IL); and Juan D. Zertuche (TX)

The drivers were included in docket number FMCSA–2017–0026. Their exemptions were applicable as of February 16, 2022 and will expire on February 16, 2024.

As of February 22, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 539; 77 FR 10608; 79 FR 6993; 81 FR 15401; 83 FR 6925; 85 FR 4769):

Brian K. Cline (NC)

The driver was included in docket number FMCSA–2011–0325. The exemption was applicable as of February 22, 2022 and will expire on February 22, 2024.

As of February 27, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 1908; 79 FR 14333; 81 FR 15401; 83 FR 6925; 85 FR 4769):

Danielle Wilkins (CA)

The driver was included in docket number FMCSA–2013–0174. The exemption is applicable as of February 27, 2022 and will expire on February 27, 2024.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals

and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–04285 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0172]

Commercial Driver's License Skills Testing: Application for Exemption; American Association of Motor Vehicle Administrators (AAMVA)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the exemption request of the American Association of Motor Vehicle Administrators (AAMVA). AAMVA requested a multi-year exemption on behalf of the State Driver Licensing Agencies (SDLAs) in Maryland, New Hampshire, and Virginia to allow the three States to continue using revised Commercial Driver's License (CDL) pre-trip vehicle inspection and revised control skills test procedures following the completion of field tests conducted under a waiver granted by the Federal Motor Carrier Safety Administration (FMCSA). AAMVA believes that the requested exemption would enable these States to continue operating under the pilot model without the burden of reverting to the current CDL test model generating costs and delays associated with the re-configuration of testing locations and retraining of CDL test examiners. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is effective February 22, 2022, and expires on February 22, 2027.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–2722. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2021–0172'' 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–2021–0172'' in the keyword box, click ''Search,'' and chose the document to review.

If you do not have access to the internet, you may view the docket 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

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

FMCSA reviews safety analyses and public comments submitted to the Agency and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The CDL requirements in 49 CFR part 383, subpart G, Required Knowledge and Skills, specifically section 49 CFR 383.133(c)(1) and (2), require the following: *Test methods:* (1) A State must develop, administer and score the skills tests based solely on the information and standards contained in the driver and examiner manuals referred to in § 383.131(a) and (b); and (2) a State must use the standardized scores and instructions for administering the tests contained in the examiner manual referred to in § 383.131(b).

Applicant's Request

On October 25, 2021, the American Association of Motor Vehicle Administrators (AAMVA) requested that FMCSA consider granting SDLAs in Maryland, New Hampshire, and Virginia (the pilot States) a multi-year exemption to allow these States to continue using revised CDL vehicle inspection and revised control skills procedures they had previously evaluated during field tests covered by a waiver from FMCSA. The requested exemption would permit these States to continue CDL testing without the burden of reverting back to the older CDL test model which would generate costs and delays associated with re-configuration of testing locations and retraining of CDL test examiners.

Previously, AAMVA requested a 90-day waiver from 49 CFR 383.133 to enable the pilot States to complete field tests of the new CDL skills test procedures. FMCSA determined that the waiver achieved an equivalent level of safety to the current regulations and therefore granted the request for the period of June 1, 2021, through September 1, 2021, for the first round of field tests; the Agency granted a separate waiver to cover additional field tests through December 1, 2021. FMCSA subsequently granted another waiver, effective through February 22, 2022, to avoid requiring the three States to revert to the current skills test procedures while the Agency considered the multi-year exemption.

In its current request, AAMVA is seeking a multi-year exemption to allow Maryland, New Hampshire, and Virginia to continue using the revised CDL vehicle inspection and revised control skills procedures once the field test waiver period has concluded. According to AAMVA, this exemption would permit the pilot States to continue CDL testing without the burden of reverting back to the older

CDL test model which would generate costs and delays associated with re-configuration of testing locations and retraining of CDL examiners.

AAMVA notes that it would seem a sound action to allow the pilot States to continue operating under the pilot model, and this exemption period, if granted, would also allow continued use of the revised testing system while AAMVA and FMCSA analyze the field test results and determine if any additional adjustments warrant further review by the Agency and testing by these pilot States. If the Agency adopts the modernized test, this exemption will minimize the back-and-forth and confusion of rotating between CDL test models in the pilot States, and if the FMCSA does not accept the modernized test, the States would revert to the current system and will require up to 30 days to transition and notify industry of the return to the current CDL test model.

IV. Method To Ensure an Equivalent or Greater Level of Safety

In granting AAMVA's original waiver request from 49 CFR 383.133, FMCSA determined that a waiver of the traditional pre-trip inspection and basic vehicle control skills testing requirements would not have an adverse impact on safety because the revised skills test would provide a comparable level of rigor as the current tests to ensure that participating CDL applicants demonstrate a level of knowledge and skills required to operate CMVs safely. The tests would be administered in a controlled setting, located within the pilot States' skills testing facilities. All other safety requirements, such as requiring the applicant to pass the traditional on-road test segment of the skills test, would continue to apply. In addition, the pilot States would be allowed to administer the revised examinations only to applicants who are domiciled in their respective States. The pilot States would continue to be prohibited from issuing CDLs to field test applicants unless the applicant passes all the required segments of the skills test. Collectively, these measures help ensure the requisite level of safety is achieved.

V. Public Comments

On December 9, 2021, published notice of this application and requested public comment [86 FR 70161]. The Agency received two comments supporting the AAMVA request; no comments were filed in opposition. The Commercial Vehicle Training Association (CVTA) stated that the exemption would provide a stable field-testing environment while the modernized framework is developed, analyzed, and adjusted as needed. CVTA added that as noted in the 90-day waiver determination previously issued by the FMCSA on August 31, the revised CDL vehicle inspection and revised control skills testing protocol, combined with the conditions set forth in the Agency's waiver determination achieve a level of safety equivalent to testing under existing protocols. CVTA added that it would be prudent to allow the pilot states to continue operating under the pilot model, as the exemption period would also allow for continued use of the revised testing system while AAMVA and FMCSA analyze the field test results and determine if any additional adjustments warrant further review by the Agency and testing by these pilot states.

The Virginia Department of Motor Vehicles (VA DMV) echoed support:

> The VA DMV currently has four test sites participating in the modified CDL testing program. The preliminary data is positive, and VA DMV hopes to have the opportunity to continue to collect all relevant data for use by FMCSA in making future determinations regarding CDL testing. Pursuant to VA DMV's participation in the pilot program, valuable information has been gathered on these modernized CDL testing procedures. To date, these field-testing operations have gone smoothly, and VA DMV continues to receive positive feedback from our participation. Accordingly, VA DMV believes that further implementation of the modernized CDL testing procedures should be considered as part of this pilot program and beyond.

VI. FMCSA Safety Analysis and Decision

FMCSA has evaluated the AAMVA application and the public comments and decided to grant the exemption. The Agency had originally provided AAMVA waivers to support two phases of data collection through December 1, 2021. As discussed above, an additional waiver was provided to avoid requiring the pilot States to revert to the current test procedure while the Agency considered AAMVA's exemption application. This waiver provided regulatory relief through February 22, 2022. In reviewing AAMVA's waiver request, FMCSA evaluated 49 CFR 383.133 and determined that a waiver of the traditional pre-trip vehicle inspection and basic vehicle control skills testing requirements would not have an adverse impact on safety because applicants will continue to be required to pass the revised version of the pre-trip inspection and basic vehicle control skills test segments which provide a comparable level of rigor compared to the traditional test. The revised testing procedures would be administered in a controlled setting and located within the same skills testing facility used for the traditional test. Those considerations are applicable to AAMVA's request for exemption. FMCSA concurs with the comments filed in support of the AAMVA request from CVTA and the VA DMV. For these reasons, the Agency grants AAMVA's exemption from 49 CFR 383.133, subject to the terms and conditions in this **Federal Register** notice.

Exemption

1. Period of the Exemption

This exemption from the requirements of 49 CFR 383.133(c)(1)(2) is granted for the period from 12:01 a.m., February 22, 2022, through 11:59 p.m., February 22, 2027.

2. Scope of Exemption

This exemption is granted to Maryland, New Hampshire, and Virginia and is limited to the provisions of 49 CFR 383.133(c)(1) and (2).

3. Terms and Conditions

a. States operating under this exemption must comply with all other applicable provisions of the FMCSRs.

b. The revised testing procedures must be administered in a controlled setting and located within the same skills testing facility used for the traditional test.

4. Preemption

In accordance with 49 U.S.C. 31315(d), during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

5. Notification to FMCSA

States using this exemption must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any CMV drivers issued CDLs who are operating under the terms of this exemption. Notifications filed under this provision shall be emailed to *MCPSD@DOT.GOV.*

The notification must include the following information:

a. Name of Exemption: ''AAMVA SDLA Pilot''

b. Date of the accident,

c. City or town, and State, in which the accident occurred, or closest to the accident scene,

d. Name of the CDL examiner;

e. CLP holder's name and CLP number and State of issuance

f. Vehicle number and State license plate number,

g. Number of individuals suffering physical injury,

h. Number of fatalities,

i. The police-reported cause of the accident,

j. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and

k. The driver's total driving time and total on-duty time prior to the accident.

6. Termination

FMCSA expects the States of Maryland, New Hampshire and Virginia will continue to maintain their safety record while operating under this exemption. However, should safety be compromised, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. The FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Robin Hutcheson,

Acting Administrator.

[FR Doc. 2022–04255 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0007]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Public Transportation Safety Certification Training Program (PTSCTP).

DATES: Comments must be submitted before May 2, 2022.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Emily Jessup, Office of Chief Counsel, (202) 366–8907 or email: *Emily.Jessup@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Public Transportation Safety Certification Training Program (PTSCTP) (OMB Number: 2132–0578)

Background: FTA's Public Transportation Safety Certification Training Program (PTSCTP) is authorized pursuant to 49 U.S.C. 5329(c)(1), which requires the Secretary of Transportation to establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems, and employees of public transportation agencies directly responsible for safety oversight. The program implements a uniform safety certification training curriculum and requirements to enhance the technical proficiency of individuals who conduct safety audits and examinations of public transportation systems operated by public transportation agencies and those who are directly responsible for safety oversight of public transportation agencies. To comply with 49 U.S.C. 5329(c)(1), these designated personnel are required to register for the PTSCTP and request an Individual Training Plan (ITP). The PTSCTP has three different ITP tracks. The different ITP tracks: (1) State Safety Oversight (SSO)—State Safety Oversight Agency (SSOA) personnel and contractors who conduct safety audits and examinations of rail transit systems; (2) Rail Transit Agency (RTA)—Rail transit agency personnel and contractors who are directly responsible for safety oversight; and (3) Bus—Bus transit agency personnel and contractors who are directly responsible for safety oversight. FTA then issues an ITP which specifies a curriculum the registrant must complete. PTSCTP participants enroll in courses specific to their curriculum. The information collected as part of this program is to ensure that SSOA and RTA recipients are complying with the prescribed training requirements by ensuring their designated personnel are receiving training that assists with enhancing technical and professional proficiency in performing safety oversight functions. FTA will use the information collected to monitor implementation and effectiveness of the PTSCTP. Certain information collected may be disseminated to recipients or FTA program managers to encourage and ensure participation by designated personnel is achieved within the prescribed 3-year certification period and maintained through refresher training. Recipients are required to self-certify compliance with 49 CFR part 672

annually. Additionally, SSOAs are required to maintain training records for their designated personnel for a five-year period. This request for renewal of an existing information collection does not reflect any changes as a result of the Bipartisan Infrastructure Law. In the event that FTA updates PTSCTP requirements, FTA will seek comment from stakeholders through the publication of a separate **Federal Register** Notice outside of the Paperwork Reduction Act process.

Respondents: State Safety Oversight Agencies and Rail Transit Agencies.

Estimated Annual Number of Respondents: 91 respondents (31 SSOAs that conduct audits and examinations of public transportation systems and 60 public RTAs with designated personnel who are directly responsible for safety oversight of their systems).

Estimated Annual Number of Responses: 1,020 responses.

Estimated Total Annual Burden: 5,118 hours.

Frequency: Annually.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2022–04298 Filed 2–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0006]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Fixed Guideway Capital Investment Grants (CIG) Program Section 5309.

DATES: Comments must be submitted before May 2, 2022.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*. Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Eddy (202) 366–5499 or email: *Susan.Eddy@dot.gov*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Fixed Guideway Capital Investment Grants (CIG) Program Section 5309 (OMB Number: 2132–0561)

Background: The Federal Transit Administration (FTA) administers the discretionary Capital Investment Grants (CIG) grant program under 49 U.S.C. Section 5309 that provides funding for major transit capital investments including rapid rail, light rail, commuter rail, bus rapid transit, and ferries. Three types of eligible projects are outlined in law: Smaller scaled corridor-based transit capital projects known as ''Small Starts''; new fixed guideway transit systems and extensions to existing fixed guideway systems known as ''New Starts''; and projects to improve capacity in existing fixed guideway corridors or will be in five years, known as ''Core Capacity''. The CIG program has a longstanding requirement that FTA evaluate proposed projects against a prescribed set of statutory criteria at specific points during the projects' development including when they seek to enter a subsequent phase of the process or a construction grant agreement. In addition, FTA must report on its evaluations and ratings annually to Congress.

The current Federal Public Transportation Law, 49 U.S.C. 5309, has not changed the statutorily defined project justification and local financial commitment criteria that are the subject of this information collection. In addition, the statutorily required approval steps for projects seeking CIG funds have not changed. The current request for renewal of this information collection does not reflect any changes as a result of the Bipartisan Infrastructure Law (BIL). FTA will seek comment from stakeholders through the publication of a separate **Federal Register** Notice outside of the PRA process. In general, the information used by FTA for CIG project evaluation and rating should arise as a part of the normal project planning process.

Respondents: State and local government agencies, including transit agencies.

Estimated Annual Number of Respondents: 155 respondents.

Estimated Total Annual Burden: 68,840 hours.

Frequency: Annually.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2022–04297 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0038]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TIGRESS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 31, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0038 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0038 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0038, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TIGRESS is:

—*Intended Commercial Use of Vessel:* ''Bareboat charters with a maximum of 12 passengers.''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Huntington Beach, CA).

—*Vessel Length and Type:* 74.7′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0038 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–04244 Filed 2–28–22; 8:45 am]

BILLING CODE 4910–81–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 and vessel that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessel placed on the SDN List has been identified as property in which a blocked person has an interest.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea M. Gacki, Director, tel.: 202–622–2480; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On February 23, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons and property are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

Individuals:

1. AHMED, Abdo Abdullah Dael (Arabic: عبده عبدالله دائل حمد) (a.k.a. AHMED, Abdoo Abdullah Dael; a.k.a. AHMED, Abdu Abdullah; a.k.a. DA'IL, 'Abduh), Sweden; Dubai, United Arab Emirates; DOB 13 Sep 1979; POB Ta'izz Al-Mukha, Yemen; nationality Yemen; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 06398551 (Yemen) expires 18 Apr 2022 (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (E.O. 13224), 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. SINGH, Chiranjeev Kumar (Arabic: شيرنجيف كومار سينج) (a.k.a. SINGH, Cheeranjeev Kumar), Muzaffarpur, India; United Arab Emirates; DOB 01 Mar 1979; citizen India; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport Z3727315 (India) expires 22 Jul 2027 (individual) [SDGT] (Linked To: AURUM SHIP MANAGEMENT FZC).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, AURUM SHIP MANAGEMENT FZC, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. STAVRIDIS, Konstantinos, United Arab Emirates; DOB 18 Mar 1949; POB Elliniko, Greece; nationality Greece; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport AT0435443

(Greece) expires 02 Aug 2025 (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities:

1. AL FOULK TRADING CO. L.L.C (Arabic: شركة الفلك للتجارة ش.ذ.م.م), PO Box 114246, Dubai, United Arab Emirates; 11th Street, Port Saeed, Deira, Dubai, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 24 Jul 2012; License 674241 (United Arab Emirates); Registration Number 10884286 (United Arab Emirates) [SDGT] (Linked To: AHMED, Abdo Abdullah Dael).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, ABDO ABDULLAH DAEL AHMED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. AURUM SHIP MANAGEMENT FZC (a.k.a. AURUM SHIP MANAGEMENT (Arabic: اورم شيب مانجمنت); a.k.a. AURUM SHIP MANAGEMENT PTE. LTD.), L1-29, PO Box 9632, Sharjah, United Arab Emirates; 204-A Wing, Sai Chamber 11, Cbd Belapur, Navi Mumbai 400614, India; Room 29, Ground Floor, Executive Suite L1, Sharjah, Sharjah, United Arab Emirates; 196, Pantech Business Hub, 28, Pandan Loop, Singapore, Singapore; Nigeria; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 07 Aug 2012; Organization Type: Sea and coastal freight water transport; Tax ID No. 100382504700003 (United Arab Emirates); License 10879 (United Arab Emirates); Registration Number 11615989 (United Arab Emirates) [SDGT] (Linked To: MAHAMUD, Abdi Nasir Ali).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ABDI NASIR ALI MAHAMUD, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. GARANTI IHRACAT ITHALAT KUYUMCULUK DIS TICARET LIMITED SIRKETI (a.k.a. "GARANTI GOLD AND EXCHANGE"), Ali Gulacti Center Apt, No: 6-302 Mimar Kemalettin Mahallesi, Koca Ragippasa Caddesi, Fatih, Istanbul 34130, Turkey; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 31 Oct 2017; Chamber of Commerce Number 1095528 (Turkey); Registration Number 105602-5 (Turkey); Central Registration System Number 389094978900001 (Turkey) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. JJO GENERAL TRADING GIDA SANAYI VE TICARET ANONIM SIRKETI, 12/340 Yesilkoy Mahallesi, Ataturk Caddesi, Bakirkoy, Istanbul 34149, Turkey; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 13 Jan 2020; Chamber of Commerce Number 1218127 (Turkey); Registration Number 228367-5 (Turkey) [SDGT] (Linked To: MAHAMUD, Abdi Nasir Ali).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, ABDI NASIR ALI MAHAMUD, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. MOAZ ABDULLA DAEL FOR IMPORT AND EXPORT (Arabic: معاذ عبدالله دائل للإستيراد والتصدير) (a.k.a. DA'IL IMPORT AND EXPORT; a.k.a. MAATH ABDULLAH DAEL IMPORT AND EXPORT), North 60th Street, Sana'a, Yemen; 50th Street, Hodeidah, Yemen; Tahrir Street, Hodeidah, Yemen; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Target Type Private Company [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. PERIDOT SHIPPING AND TRADING LLC (Arabic: بيريدوت للتجارة والشحن ذ م م) (a.k.a. PERIDOT SHIP MANAGEMENT; a.k.a. PERIDOT SHIPPING & TRADING LLC), Sharjah Media City, Al Messaned, Al Bataeh, Sharjah, Sharjah, United Arab Emirates; Office 903, Arenja Chambers-II, Sector 15, CBD Belapur, Navi Mumbai, Maharashtra 400614, India; L-1, Office No. 28, Sharjah, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 03 Nov 2018; Identification Number IMO 6170108; License 1805553.01 (United Arab Emirates); Registration Number 11594369 (United Arab Emirates) [SDGT] (Linked To: SINGH, Chiranjeev Kumar).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, Chiranjeev Kumar SINGH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. AL HADHA EXCHANGE CO. (Arabic: شركة لحظاء للصرافة) (a.k.a. AL-HADHA EXCHANGE COMPANY), Al-Zubairi Street, Sana'a, Yemen; Al-Qasr Street, Sana'a, Yemen; Taiz Street, Sana'a, Yemen; Queen Arwa Street, Aden, Yemen; Main Street, Al-Mukalla, Yemen; Sana'a Street, Al-Hudaydah, Yemen; Jamal Street, Taiz, Yemen; Website https://alhadhagroup.com; alt. Website https://alhadha.group; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Type: Other monetary intermediation [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. ALALAMIYAH EXPRESS COMPANY FOR EXCHANGE AND REMITTANCE (Arabic: الشركة العالمية إكسبرس للصرافة والتحويلات المالية) (a.k.a. ALALAMIYAH EXPRESS COMPANY), South 60th Street, Sana'a, Yemen; Website https://alameyahexpress-ye.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Type: Other monetary intermediation [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. FANI OIL TRADING FZE, P1-ELOB Office No. E-32G-03, United Arab Emirates; P.O. Box 7382, Fujairah, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 12 Jul 2006; License 11578909 (United Arab Emirates); alt. License 17959 (United Arab Emirates); alt. License 11677258 (United Arab Emirates); alt. License 1858 (United Arab Emirates) [SDGT] (Linked To: STAVRIDIS, Konstantinos).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, KONSTANTINOS STAVRIDIS, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

On February 23, 2022, OFAC also identified the following vessel as property in which a blocked person has an interest under the relevant sanctions authority listed below:

Vessel:

1. LIGHT MOON (V4EO4) Bulk Carrier St. Kitts and Nevis flag; Secondary sanctions risk: Section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9109550 (vessel) [SDGT] (Linked To: MAHAMUD, Abdi Nasir Ali).

Identified pursuant to E.O. 13224, as amended, as property in which ABDI NASIR ALI MAHAMUD, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Dated: February 23, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–04200 Filed 2–28–22; 8:45 am]

BILLING CODE 4810–AL–C

FEDERAL REGISTER

Vol. 87 Tuesday,
No. 40 March 1, 2022

Part II

Federal Retirement Thrift Investment Board

5 CFR Parts 1600, 1601, 1605, et al.
Transition to a New Recordkeeping System; Proposed Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1605, 1620, 1631, 1640, 1645, 1650, 1651, 1653, 1655, and 1690

Transition to a New Recordkeeping System

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) is proposing to update its regulations to reflect new processes and terminology associated with the Thrift Savings Plan's upcoming transition to a new record keeping system.

DATES: Comments must be received on or before May 2, 2022.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Dharmesh Vashee, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

Comments will be made available to the public online at *https://www.regulations.gov.* Do not include any personally identifiable or confidential information that you do not want publicly disclosed. Anonymous comments are acceptable.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Contact Kim Weaver at (202) 465–5220. *For information about how to comment on this proposed rule:* Contact Laurissa Stokes at (202) 308–7707.

SUPPLEMENTARY INFORMATION: The FRTIB administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). The provisions of FERSA that govern the TSP are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79.

I. Background

In November 2020, the FRTIB awarded a contract to a service provider that will maintain and operate technology platform(s) to deliver retirement plan record keeping services. Examples of retirement plan record keeping services include: (1) Maintaining eligibility records, (2) managing payroll data, (3) processing transactions such as contribution elections, investment elections, withdrawals, loans, and beneficiary designations, (4) issuing account statements to participants, (5) providing online account access, and (6) providing responsive customer support to TSP participants.

The FRTIB is currently undergoing an 18–24 month transition from its existing technology platforms to the technology platforms of its new record keeper. Following this transition, TSP participants will be able to take advantage of many new services and functionalities, such as a mobile app, electronic payment options, quick access to customer service support through an online live chat function, and the ability to complete most transactions entirely online instead of using paper forms. As described in more detail below, the FRTIB is proposing to amend its regulations to reflect these and other new processes, and to update its vocabulary to reflect the terminology used by the new record keeper.

II. Proposed Amendments

A. Contributing to, Investing in, and Rolling Over to the TSP

1. *Terminology Changes.* The FRTIB is proposing to amend its regulations to reflect the following new terminology that will be used upon transition to the new recordkeeping system when referring to a TSP participant's ability make contributions and invest in the TSP:

(a) The term ''contribution allocation'' will be replaced with the term ''investment election'', which will refer to the apportionment of a participant's future contributions and rollovers amongst the TSP funds.

(b) The term ''interfund transfer'' will be replaced with two new terms—(i) ''fund transfer,'' which will refer to the transfer of money in a participant's TSP account from one TSP fund to another TSP fund, and (ii) ''fund reallocation,'' which will refer to the total redistribution of a participant's account balance among TSP funds.

(c) The terms ''transfer'' and ''trustee-to-trustee transfer'' will be replaced with the term ''rollover.''

2. *Process Changes.* The FRTIB is proposing to amend its regulations to reflect changes applicable to rollovers and investment elections, as described below.

Currently, TSP participants who want to roll over money directly from another retirement plan or IRA into their TSP account must shepherd paperwork between the TSP and the financial institution that holds their other retirement funds. Post-transition, rollovers will be easier. Specifically, TSP participants will no longer have to ask the transferring financial institution to complete the TSP's paper form. The proposed amendments to paragraphs (a)(1) and (b) of § 1600.31 reflect this change.

Currently, interfund transfer requests and contribution allocation requests received prior to noon eastern time of any business day are ordinarily posted that business day. The same timing will apply to post-transition fund transfer requests and post-transition fund reallocation requests. However, post-transition investment election requests will generally be posted immediately and be effective the next business day regardless of the time they are submitted. In the rare case that a transaction request is submitted on paper, it will generally be entered into the recordkeeping system within 48 hours of receipt by the TSP record keeper. The proposed amendments to paragraphs (a)(1) and (3) of § 1601.32 reflect these changes.

B. Withdrawing Amounts From the TSP

1. *Terminology Changes.* The FRTIB is proposing to amend its regulations to reflect the following new terminology that will be used upon transition to the new recordkeeping system when referring to a TSP participant's ability to withdraw amounts from the TSP:

(a) The term ''post-employment withdrawal'' will be replaced with the term ''post-employment distribution,'' which will refer to a TSP distribution that is available to participants who have separated from government service.

(b) The term ''TSP withdrawal'' will refer to a post-employment distribution and/or an in-service withdrawal.

2. *Process Changes.* The FRTIB is proposing to amend its regulations to reflect changes applicable to TSP withdrawals, as described below.

Currently, any withdrawal request requiring a signature must be mailed or faxed to the TSP. With the new recordkeeping system, which supports electronic signatures, all TSP participants (including married FERS participants who must obtain spousal consent) will be able to complete withdrawal requests entirely online. Participants may also call the ThriftLine to initiate a TSP withdrawal request. Notarization will no longer be required

for withdrawal requests initiated online or by calling the ThriftLine because the new record keeper will, instead, use a variety of other identity verification methods. These changes will enable TSP participants to access their money more efficiently and securely. The proposed amendments to §§ 1650.4, 1650.6, 1650.24, 1650.41, 1650.42, 1650.61(c)(4), 1650.62(b)–(c), 1650.63(a)–(b), and 1650.64(b) reflect these changes.

Currently, a TSP participant must be separated from government service for 31 calendar days before they are eligible for a post-employment distribution. This rule exists because Federal employees often separate from one Federal agency to seek employment at another Federal agency. Post-transition, a TSP participant must be separated from government service for at least 60 calendar days before they are eligible for a post-employment distribution. The shorter 31-day time period often misleads participants who are between Federal jobs into requesting post-employment distributions when they are not truly separated from government service. Increasing this time period to 60 calendar days will reduce the number of these occurrences. The proposed amendments to §§ 1600.34, 1620.41, 1650.2(d)(1)–(2), and 1650.23 reflect this change.

Currently, a TSP participant who takes a post-employment distribution in the form of installment payments calculated based on life expectancy has his or her installment payment amount, for each year following the year in which the installment payments begin, calculated on the first installment payment date of that year. Post-transition, the installment payment amount for each year following the year in which the installment payments begin will be calculated in January of that year, regardless of the first installment payment date. The proposed amendments to § 1650.13(a)(2) reflect this change.

Currently, if a TSP withdrawal is returned as undeliverable and the TSP record keeper is not able to locate the participant within 60 days, the returned funds are forfeited to the TSP and may be reclaimed (without earnings) by the participant at any time. Post-transition, returned funds will be forfeited to the TSP if the participant is not located within 90 days. The proposed amendment to § 1650.5 reflects this change.

C. TSP Loans

1. *Terminology Changes.* The FRTIB is proposing to amend its regulations to reflect the following new terminology that will be used upon transition to the new recordkeeping system when referring to a TSP participant's ability to take a loan from his or her TSP account:

(a) The term ''deemed distribution'' will refer to the amount of outstanding principal and interest on a TSP loan that must be reported to the Internal Revenue Service (IRS) as taxable income as the result of an active participant's failure to either—(i) make timely loan repayments by the required deadline, or (ii) repay the loan in full by the maximum loan term limit. The new TSP record keeper will also use the terms ''loan taxation'' and ''taxed loan'' to refer to a deemed distribution.

(b) The term ''loan offset'' will refer to the amount of outstanding principal and interest on a TSP loan that must be reported to the IRS as taxable income as the result of the failure of a separated participant to either (i) begin making loan repayments, or (ii) repay his or her loan in full by the deadline imposed by the TSP record keeper. The new TSP record keeper will also use the term ''loan foreclosure'' to refer to a loan offset.

(c) The term ''taxable distribution'' will no longer be used.

2. *Process Changes.* The FRTIB is proposing to amend its regulations to reflect changes applicable to TSP loans, as described below.

As noted above, post-transition, TSP participants will be able to leverage new electronic signature capability to complete loan requests (including those that require spousal consent) entirely online. Participants may also call the ThriftLine to initiate a loan request. Notarization will no longer be required for loan requests initiated online or by calling the ThriftLine because the new TSP record keeper will, instead, use a variety of other identity verification methods. The proposed amendments to §§ 1655.10 and 1655.12 reflect these changes.

Currently, a TSP participant can request a residential loan for the purchase or construction of a ''primary residence''—which may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, a mobile home, a boat, or a recreational vehicle. Post-transition, the definition of primary residence will no longer include a boat or a recreational vehicle. This change will bring the TSP's requirements and processes for residential loans in line with those used most commonly by private sector plans and will reduce the amount of documentation participants are required to submit with their residential loan requests. For home purchase other than construction, a participant will need only provide a signed sale/purchase contract/settlement offer or agreement or addendum. For construction, a signed builder's agreement will be sufficient. If the loan request includes closing costs and/or settlement charges, the participant must include a loan estimate/worksheet/statement/closing disclosure from a mortgage company. The proposed amendments to § 1655.20 reflect these changes.

Currently, a participant may have two outstanding loans per TSP account only if one is a general purpose loan and the other is a residential loan. Post-transition, a participant may have two outstanding loans per TSP account as follows—(i) a participant may have two general purpose loans, or (ii) she or he may have one general purpose loan and one residential loan. As required by IRS rules, the maximum loan term for a general purpose loan is 60 months and the maximum loan term for a residential loan is 180 months. Currently, the minimum loan term for both types of loans is 12 months. Post-transition, the minimum loan term for general purpose loans will remain 12 months, but the minimum loan term for residential loans will change from 12 months to 61 months. These changes will help TSP participants avoid the more burdensome paperwork requirements for residential loans by permitting and encouraging the use of general purpose loans in lieu of residential loans. The proposed amendments to §§ 1655.4 and 1655.5(a) reflect this change.

Currently, a TSP participant must wait 60 calendar days following repayment of a prior loan before they are eligible to request a new loan. Additionally, a participant whose prior loan has been reported to the IRS as taxable because of missed loan payments must wait 12 months before requesting a new loan. Post-transition, the 60-calendar day waiting period will be reduced to 30 business days, and the 12-month waiting period will be eliminated altogether. The proposed amendment to § 1655.2(a) and the proposed removal of § 1655.2(e) reflect these changes.

Currently, the maximum amount a participant can borrow is the smallest of the following:

(1) The total of the participant's own contributions and earnings on those contributions (not including agency matching or automatic contributions and not including any outstanding loan balance);

(2) 50% of the participant's total vested account balance (including agency matching and automatic contributions and including any

outstanding loan balance) or $10,000, whichever is greater, minus any outstanding loan balance; or

(3) $50,000 minus the participant's highest outstanding loan balance, if any, during the last 12 months.

Post-transition, agency matching and automatic contributions will not be included for purposes of determining the amount that is 50% of the participant's total vested account balance. The proposed amendment to § 1655.6(b)(2) reflects this change. In addition, if the TSP makes a mutual fund window available to participants, amounts invested through the mutual fund window will not be included for purposes of determining either the amount that is the total of the participant's own contributions or the amount that is 50% of the participant's total vested account balance. The proposed addition of paragraph (d) to § 1655.6 reflects this rule.

Currently, the interest rate for new loans is the monthly G Fund rate in effect on the date the loan request is made. Post-transition, the interest rate for new loans will be the monthly G Fund rate in effect on the 15th of the month prior to the date the loan request is made. The proposed amendment to § 1655.7(a) reflects this change.

Currently, a participant who wishes to make extra loan payments to restore their account more quickly, or to make up for missed payments, must do so by check or money order. Post-transition, a participant will also have the option to make extra loan payments via direct debit from his or her personal savings or checking account. The proposed amendments to §§ 1620.35 and 1655.14, 1655.15, and 1655.17 reflect these changes.

Currently, a participant who separates from service with an outstanding loan balance must either repay the entire balance within a certain timeframe (which many participants cannot afford to do) or include it in their taxable income. Post-transition, separated participants will be able to continue to make loan repayments on a monthly basis so as to replenish their retirement savings. These repayments may be made via personal check, money order, or direct debit. The proposed amendments to §§ 1620.35, 1655.14, 1655.15, and 1655.17 reflect these changes.

Currently, a participant may request reamortization of a loan at any time. Post-transition, a participant may request reamortization only when the participant's pay cycle changes. The participant must notify the TSP record keeper of the pay cycle change so his or her loan may be reamortized to adjust the scheduled payment to an equivalent amount in the new pay cycle. The proposed amendment to § 1655.16(a) reflects this change.

Currently, if a loan disbursement is returned as undeliverable and the TSP record keeper is not able to locate the participant within 60 days, the returned funds are used to repay the loan. This proposed rule would replace 60 days with 90 days. The proposed amendment to § 1655.13 reflects this change.

3. *Fees.* Since 2004, the TSP has imposed a $50.00 loan fee. This fee is paid only by those participants who choose to take a loan from the TSP and is used to offset the cost of maintaining the loan program. Post-transition, the $50.00 fee for general purpose loans will remain in place. However, in order to ensure that the costs of the loan program are borne only by those participants who actually use it, a $100.00 loan fee will be charged for all residential loans. Reviewing residential loan request materials, which include items such as purchase contracts, is much more labor-intensive than reviewing general purpose loan requests, thus necessitating a differentiated loan fee schedule. The proposed amendment to § 1655.21 reflects this change.

D. TSP Beneficiaries and Death Benefits

1. *Terminology Changes.* Although the terminology used in the existing FRTIB regulations regarding TSP beneficiaries and death benefits will not change upon transition to the new recordkeeping system, the FRTIB notes that, commensurate with the move to online beneficiary designations described below, the term ''TSP–3,'' which refers to the paper form currently used to make beneficiary designations, will no longer be used to refer to a TSP beneficiary designation.

2. *Process Changes.* The FRTIB is proposing to amend its regulations to reflect changes applicable to beneficiary designations and death benefit payments, as described below.

Currently, a participant who wants to designate a beneficiary for their TSP account must complete a lengthy paper form. Post-transition, participants will be able to designate beneficiaries entirely online (or by calling the ThriftLine). A participant who has a beneficiary designation already on file may change their designated beneficiary at any time by completing a new beneficiary designation online. The option to cancel a beneficiary designation without designating a new beneficiary, thereby reverting to the statutory order of precedence, will no longer be available. The proposed amendments to §§ 1651.2(a)(1), 1651.3(a), (c) introductory text, and (c)(3), and 1651.4 reflect these changes.

The new recordkeeping system allows participants to designate up to 20 total beneficiaries (primary and contingent). The proposed amendment to § 1651.2(b) reflects this change. Contingent beneficiaries that are designated post-transition will not be linked to a primary beneficiary. Instead, in the event a primary beneficiary predeceases a participant, his or her share of the participant's TSP account will be split evenly among the remaining primary beneficiaries. Contingent beneficiaries will only receive a share of the participant's TSP account balance if there are no surviving primary beneficiaries. The requirement to link contingent beneficiaries to primary beneficiaries under the current system often results in errors that cause otherwise valid TSP beneficiary designations to be rejected. Eliminating the linkage requirement will greatly reduce errors for TSP participants wishing to designate contingent beneficiaries. The removal of § 1651.3(c)(7) reflects this change.

Post-transition, participants will remain able to designate a minor as a beneficiary. However, participants will no longer be permitted to designate a custodian for a minor by reference to the Uniform Transfers to Minors Act. This change is reflected in the proposed amendment to § 1651.3(b).

Currently, upon a participant's death, his or her entire TSP account balance is moved to the G Fund. If a participant dies on or after the transition date, their account balance will remain invested in the same TSP funds as it was invested in on the participant's date of death. The proposed amendment to § 1651.2(d) reflects this change.

Currently, when a beneficiary participant account is established, the entire account balance is invested in the age-appropriate L Fund based on the beneficiary participant's date of birth. Post-transition, the account balance will be allocated to the TSP funds in which the deceased participant's account balance was invested on his or her date of death. The proposed amendment to § 1651.19(a) reflects this change.

Currently, potential beneficiaries apply for TSP death benefits by printing and mailing to the TSP a paper form along with a certified copy of the participant's death certificate. Post-transition, potential beneficiaries will contact the ThriftLine for instructions on providing the certified death certificate and any other information that may be needed. The proposed amendment to § 1651.13 reflects this change.

E. Court Orders and Powers of Attorney

1. *Process Changes*—Retirement Benefits Court Orders (RBCOs). The FRTIB is proposing to amend its regulations to reflect changes applicable to RBCOs, as described below:

A RBCO is a court decree of divorce, annulment, or legal separation (or a court order or court-approved property settlement agreement incident to such a decree) that divides a participant's TSP account between the participant and their spouse or former spouse. To be accepted by the TSP as a qualifying RBCO, a court order must meet the requirements found in 5 United States Code (U.S.C.) 8435(c) and 5 Code of Federal Regulations (CFR) part 1653, subpart A.

TSP participants and their spouses/former spouses (or their attorneys) will sometimes attempt to submit a draft RBCO to the TSP to determine whether it is ''qualifying'' (*i.e.,* will be accepted by the TSP) before the RBCO is executed by a court. Currently, draft RBCOs are rejected. Post-transition, the new record keeper will review draft RBCOs and notify the parties whether or not the draft RBCO is qualifying. This new service will provide assurance to participants and their spouses/former spouses (or their attorneys) that, once the RBCO is executed by a court, it will be accepted by the TSP. The proposed amendments to §§ 1653.2(b) and 1653.3(d)–(e) and (h)(1) reflect this change.

Post-transition, RBCOs must award a specific dollar amount or stated percentage of a participant's TSP account; fractions will no longer be permitted. The proposed amendments to §§ 1653.2(a)(3)(ii) and (iv), 1653.3(j)(3), and 1653.4(b)–(c), (e), and (f)(3)(i) reflect this change. If a RBCO grants earnings, it may not specify the rate of earnings. The proposed amendments to § 1653.4(f)(1) and (2) and (f)(3) introductory text reflect this change. In addition, a final RBCO must be certified by a court. The proposed amendment to § 1653.3(a) reflects this change.

If a RBCO is accepted as qualifying, payment to the payee will be made as soon as administratively practicable thereafter. However, as required by the Internal Revenue Code, in no event will payment to a payee who is a current or former spouse be made prior to 30 calendar days after the date of the determination. The amendments to § 1653.5(a) reflect these changes.

Currently, upon receipt of a RBCO, the participant's account is frozen. If the RBCO is rejected as not qualifying, the freeze is removed 45 days later. Post-transition, a TSP account will remain frozen until the earlier of (i) 18 months after the RBCO is rejected, or (ii) when both parties to the non-qualifying RBCO submit a request to unfreeze the account. The proposed amendment to § 1653.3(h)(2)(ii) reflects this change.

If a RBCO is rejected as not qualifying, a participant (or their spouse/former spouse) may appeal this determination under part 1605 if they believe that the RBCO was not processed in accordance with applicable laws and regulations. The FRTIB proposes to amend § 1653.5 by removing paragraph (g), which erroneously suggests that in no event may a participant appeal a RBCO denial.

2. *Process Changes*—Child Support Court Orders (CSCOs). The FRTIB is proposing to amend its regulations to reflect a change to the process for reviewing CSCOs. Namely, post-transition, an incomplete CSCO will automatically be rejected and the TSP account to which it relates will be unfrozen. The proposed amendments to §§ 1653.12(c)(2) and 1653.13(e) and (h)(1) reflect this change.

If a CSCO is rejected as not qualifying, a participant may appeal this determination under part 1605 if he or she believes that the CSCO was not processed in accordance with applicable laws regulations. The FRTIB proposes to amend § 1653.13 by removing paragraph (g), which erroneously suggests that in no event may a participant appeal a CSCO denial.

3. *Process Changes*—Powers of Attorney. Consistent with the approach taken by many private sector plans, the new TSP record keeper will honor a power of attorney if it is valid under the laws of the state in which the participant lives. Not all states require powers of attorney to be notarized. Therefore, the FRTIB is proposing to remove the notarization requirement that is currently applicable to all powers of attorney. The proposed amendment to § 1690.12(a) reflects this change.

4. *Fees.* The process of reviewing RBCOs and CSCOs for qualification is and always has been a very labor-intensive process. In recent years, this process has become significantly more costly as the number of RBCOs and CSCOs submitted has increased. Like the loan program, the RBCO/CSCO review process is only utilized by certain TSP participants. In order to ensure that the associated costs are not subsidized by participants who never use these services, a participant will be charged a $600.00 fee for each RBCO and CSCO submitted for their account.

In the case of a RBCO, the $600.00 will be deducted from the participant's TSP account upon receipt of a complete RBCO. The fee will apply only once per RBCO. In other words, if a draft RBCO is submitted, the $600.00 fee will be deducted upon receipt of the draft RBCO but an additional fee will not be charged when the final RBCO is submitted. However, the fee will not be refunded if a draft RBCO is never finalized or if the RBCO is rejected as not qualifying. In both cases, the TSP record keeper has still engaged in the review process. If a qualifying RBCO specifies that the parties should split the fee, the payee's portion of the fee will be deducted from their RBCO payment and credited back to the participant's account. Proposed § 1653.6 reflects these changes.

In the case of a CSCO, the $600.00 will be deducted from the participant's TSP account upon receipt of a complete CSCO and will apply only once per CSCO. For example, if a CSCO for $1,000.00 is submitted but, after the deduction of the $600.00 fee, the participant does not have sufficient funds in his or her TSP account to cover the full amount, the fee will not be charged again when another CSCO is submitted to recoup the remaining amounts owed. However, the fee will not be refunded if the CSCO is rejected as not qualifying. Proposed § 1653.16 reflects these changes.

F. Account Statements

The FRTIB proposes to update part 1640 to accurately reflect the information that will be included on participant account statements post-transition. Some information previously provided on statements has been, or will be, removed or truncated to protect personally identifiable information and thereby increase account security. These items include date of birth, retirement system coverage, and employment status. The proposed amendments to § 1640.3 reflect these changes.

In addition, some transaction details currently provided on statements will be removed to conform to the standard configurations of the new TSP record keeper's technology platform. These items include the date the transaction posted, the source of contributions affected by the transaction, the share or unit price at which the transaction was posted, and information relating to outstanding loans. The proposed amendments to §§ 1640.4 and 1655.8 reflect these changes.

G. Miscellaneous

The FRTIB proposes to make certain changes to reflect the way breakage and negative adjustments will be calculated under the new recordkeeping system. Specifically: (i) Daily earnings will be

used in lieu of monthly earnings; and (ii) the share price for the L Income Fund will be used instead of a constructed share price to calculate breakage and negative adjustments in the case of a retired TSP Lifecycle Fund. The proposed amendments to §§ 1605.2(b) and 1605.12(c) reflect these changes.

The FRTIB also proposes to update its regulation governing the calculation of share/unit prices to reflect the fact that the new recordkeeping system truncates share/unit prices to four decimal places rather than two decimal places. The proposed amendment to § 1645.5(a) reflects this change.

III. Amendments for Technical Conformity

The following proposed amendments are necessary to remove obsolete provisions, reconcile cross-references, and ensure consistent language usage:

1. The FRTIB proposes to remove obsolete provisions concerning the suspension of TSP contributions for six months after a hardship withdrawal. Legislation to permit this change was included in the Bipartisan Budget Act of 2018, Public Law 115–123 (132 Stat. 64). Consistent with that legislation, and subsequent IRS guidance, the TSP stopped enforcing the requirement to suspend contributions when a participant takes a hardship withdrawal in September 2019. The proposed amendments to §§ 1600.13(b), 1600.14(b), 1650.33, and 1655.2(c) reflect this change.

2. The FRTIB proposes to update the certificate of truthfulness language in its loan rules to match the certificate of truthfulness language included in its withdrawal rules. The proposed amendment to § 1655.18 reflects this change.

3. The FRTIB proposes to update a list of internal FRTIB offices contained in its regulations because the current list no longer accurately reflects the internal FRTIB offices. The proposed amendments to § 1631.3 reflect this change.

4. The terms ''Board'', ''TSP'', and ''TSP record keeper'' are used interchangeably throughout parts 1600–1690. The FRTIB is proposing to modify the usage of these terms in several places to achieve more precision and consistency.

5. The FRTIB proposes to amend § 1600.21(b) to clarify its articulation of FERSA's requirement that a uniformed services member cannot contribute special or incentive pay unless he or she is also contributing basic pay.

6. The FRTIB proposes to update the cross-reference to 5 U.S.C. 8438 in § 1601.40 to clarify that the TSP Lifecycle Funds invest only in the C, S, F, I, and G Funds.

Regulatory Flexibility Act

This proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

Paperwork Reduction Act

This proposed regulations does not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on State, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

List of Subjects

5 CFR Part 1600

Claims, Government employees, Pensions, Retirement, Taxes.

5 CFR Part 1601

Government employees, Pensions, Retirement.

5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1620

District of Columbia, Government employees, Pensions, Retirement.

5 CFR Part 1631

Courts, Freedom of information, Government employees.

5 CFR Part 1640

Government employees, Pensions, Retirement.

5 CFR Part 1645

Government employees, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1651

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1653

Alimony, Child support, Government employees, Pensions, Retirement.

5 CFR Part 1655

Credit, Government employees, Pensions, Retirement.

5 CFR Part 1690

Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB proposes to amend 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS, INVESTMENT ELECTIONS, AND AUTOMATIC ENROLLMENT PROGRAM

■ 1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1), and 8440e.

■ 2. The heading for part 1600 is revised to read as set forth above.

■ 3. Amend § 1600.11, in paragraph (b), as follows:

■ a. Revise the heading; and

■ b. Remove ''TSP Funds'' and add in its place ''TSP core funds''.

The revision reads as follows:

§ 1600.11 Types of elections.

* * * * *

(b) *Investment election.* * * *

§ 1600.13 [Amended]

■ 4. Amend § 1600.13 by removing and reserving paragraph (b).

■ 5. Amend § 1600.14 as follows:

■ a. Remove and reserve paragraph (b); and

■ b. Revise paragraph (d).

The revision reads as follows:

§ 1600.14 Effect of election to be covered by BRS.

* * * * *

(d) Agency automatic (1%) contributions for all members covered under this section and, if applicable, agency matching contributions attributable to employee contributions must begin at the time set forth in § 1600.19(c).

§ 1600.18 [Amended]

■ 6. Amend § 1600.18, in the first sentence, by removing ''TSP'' and adding in its place ''TSP record keeper''.

■ 7. Amend § 1600.19 as follows:

■ a. Revise the headings for paragraphs (a) and (b);

■ b. In paragraphs (c)(2)(i)(A) and (c)(2)(ii)(A), remove ''Agency Automatic (1%) Contributions'' and add in its place ''Agency automatic (1%) contributions'';
■ c. In paragraphs (c)(2)(i)(B) and (c)(2)(ii)(B), remove ''Agency Matching Contributions'' ''Agency matching contributions'';
■ d. In paragraph (c)(2)(i)(B), remove ''2 years'' and add in its place ''2 years and one day''.

The revisions read as follows:

§ 1600.19 Employing agency contributions.

(a) *Agency automatic (1%) contributions.* * * *

(b) *Agency matching contributions.* * * *

* * * * *

■ 7. Amend § 1600.21 by revising the first sentence of paragraph (b) to read as follows:

§ 1600.21 Contributions in whole percentages or whole dollar amounts.

* * * * *

(b) Uniformed services members may elect to contribute from basic pay and, if they elect to contribute from basic pay, special or incentive pay (including bonus pay) subject to the limits described in § 1600.22. ***

§ 1600.22 [Amended]

■ 8. Amend § 1600.22, in paragraph (a), by removing ''(26 U.S.C.)''.
■ 9. Revise subpart D to read as follows:

Subpart D—Rollovers from Other Qualified Retirement Plans

Sec.

1600.30 Accounts eligible for rollover.
1600.31 Methods for rolling over eligible rollover distribution to the TSP.
1600.32 Treatment accorded rollover funds.
1600.33 Combining uniformed services accounts and civilian accounts.

Subpart D—Rollovers from Other Qualified Retirement Plans

§ 1600.30 Accounts eligible for rollover.

(a) A participant who has an open TSP account and is entitled to receive (or receives) an eligible rollover distribution from an eligible employer plan within the meaning of section 402(c) of the Internal Revenue Code (26 U.S.C. 402(c)), or from a traditional IRA may roll over that distribution into his or her existing TSP account in accordance with § 1600.31.

(b) The only balances that the TSP record keeper will accept are balances that would otherwise be includible in gross income if the distribution were paid to the participant. The TSP record keeper will not accept any balances that have already been subjected to Federal income tax (after-tax monies) or balances from a uniformed services TSP account that will not be subject to Federal income tax (tax-exempt monies).

(c) Notwithstanding paragraph (b) of this section, the TSP record keeper will accept Roth funds that are transferred via direct rollover from an eligible employer plan that maintains a qualified Roth contribution program described in section 402A of the Internal Revenue Code.

(d) The TSP record keeper will accept a rollover only to the extent the rollover is permitted by the Internal Revenue Code.

§ 1600.31 Methods for rolling over eligible rollover distribution to the TSP.

(a) *Direct rollover.* (1) A participant may request that the administrator or trustee of an eligible employer plan or traditional IRA roll over any or all of his or her account directly to the TSP in the form and manner prescribed by the TSP record keeper. The administrator or trustee must provide to the TSP record keeper the distribution, information about the type of money included in the distribution (*i.e.,* tax-deferred and/or Roth amounts), and sufficient evidence from which to reasonably conclude that a contribution is a valid rollover contribution (as defined by 26 CFR 1.401(a)(31)–1, Q&A–14). By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan administrator or trustee indicating that it is an eligible employer plan or traditional IRA, a check indicating that the contribution is a direct rollover, a payment confirmation, distribution statement or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

(2) If the distribution is from a Roth account maintained by an eligible employer plan, the plan administrator must also provide to the TSP record keeper a statement indicating the first year of the participant's Roth 5 year non-exclusion period under the distributing plan and either:

(i) The portion of the direct rollover amount that represents Roth contributions (*i.e.,* basis); or

(ii) A statement that the entire amount of the direct rollover is a qualified Roth distribution (as defined by Internal Revenue Code section 402A(d)(2)).

(b) *Indirect rollover by participant.* A participant who has already received a distribution from an eligible employer plan or traditional IRA may request to roll over all or part of the distribution into the TSP in the form and manner prescribed by the TSP record keeper. However, the TSP record keeper will not accept a rollover by the participant of Roth funds distributed from an eligible employer plan. A distribution of Roth funds from an eligible employer plan may be rolled into the TSP by direct rollover only. The TSP record keeper will accept a rollover by the participant of tax-deferred amounts if the following requirements and conditions are satisfied:

(1) The participant must request to roll over the amounts in the form and manner prescribed by the TSP record keeper.

(2) The administrator or trustee must provide to the TSP record keeper information about the type of money included in the distribution (*i.e.,* tax-deferred and/or Roth) and sufficient evidence from which to reasonably conclude that a contribution is a valid rollover contribution. By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan indicating that it is an eligible employer plan or traditional IRA, a check indicating that the contribution is a direct rollover, a payment confirmation, distribution statement or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

(3) The participant must submit a certified check, cashier's check, cashier's draft, money order, treasurer's check from a credit union, or personal check, made out to the ''Thrift Savings Plan,'' for the entire amount of the rollover, along with any other information required by the TSP record keeper. A participant may roll over the full amount of the distribution by making up, from his or her own funds, the amount that was withheld from the distribution for the payment of Federal taxes.

(4) The transaction must be completed within 60 days of the participant's receipt of the distribution from his or her eligible employer plan or traditional IRA. The transaction is not complete until the TSP record keeper receives the guaranteed funds for the amount to be rolled over, information sufficient to conclude that the amount is a valid rollover contribution, and any other information required by the TSP record keeper.

(c) *Participant's certification.* When rolling over a distribution to the TSP by either a direct or indirect rollover, the

participant must certify that the distribution is eligible for roll over into the TSP, as follows:

(1) *Distribution from an eligible employer plan.* The participant must certify that the distribution:

(i) Is not one of a series of substantially equal periodic payments made over the life expectancy of the participant (or the joint lives of the participant and designated beneficiary, if applicable) or for a period of 10 years or more;

(ii) Is not a minimum distribution required by I.R.C. section 401(a)(9) (26 U.S.C. 401(a)(9));

(iii) Is not a hardship distribution;

(iv) Is not a plan loan that is deemed to be a taxed loan because of default;

(v) Is not a return of excess elective deferrals; and

(vi) If not rolled over, would be includible in gross income for the tax year in which the distribution is paid. This paragraph (c)(1)(vi) shall not apply to Roth funds distributed from an eligible employer plan.

(2) *Distribution from a traditional IRA.* The participant must certify that the distribution:

(i) Is not a minimum distribution required under I.R.C. section 401(a)(9) (26 U.S.C. 401(a)(9)); and

(ii) If not rolled over, would be includible in gross income for the tax year in which the distribution is paid.

§ 1600.32 Treatment accorded rollover funds.

(a) All funds rolled over to the TSP pursuant to §§ 1600.30 and 1600.31 will be treated as employee contributions.

(b) All funds rolled over to the TSP pursuant to §§ 1600.30 and 1600.31 will be invested in accordance with the participant's investment election on file at the time the rollover is completed.

(c) Funds rolled over to the TSP pursuant to §§ 1600.30 and 1600.31 are not subject to the limits on contributions described in § 1600.22.

§ 1600.33 Combining uniformed services accounts and civilian accounts.

Uniformed services TSP account balances and civilian TSP account balances may be combined (thus producing one account), subject to paragraphs (a) through (g) of this section:

(a) An account balance can be combined with another once the TSP record keeper is informed (by the participant's employing agency) that the participant has separated from Government service.

(b) Tax-exempt contributions may not be transferred from a uniformed services TSP account to a civilian TSP account.

(c) A traditional balance and a Roth balance cannot be combined.

(d) Funds transferred to the gaining account will be allocated among the TSP core funds according to the investment election in effect for the account into which the funds are transferred.

(e) Funds transferred to the gaining account will be treated as employee contributions and otherwise invested as described at 5 CFR part 1600.

(f) A uniformed service member must obtain the consent of his or her spouse before combining a uniformed services TSP account balance with his or her civilian account, even if the civilian account is not subject to FERS spousal rights. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(g) A loan cannot be transferred between accounts. Before the accounts can be combined, any outstanding loans from the losing account must be closed as described in 5 CFR part 1655.

■ 10. Amend § 1600.34 by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 1600.34 Automatic enrollment program.

(a) All newly hired civilian employees who are eligible to participate in the Thrift Savings Plan and those civilian employees who are rehired after a separation in service of 60 or more calendar days and who are eligible to participate in the TSP will automatically have 5% of their basic pay contributed to the employee's traditional TSP balance (default employee contribution) unless, by the end of the employee's first pay period (subject to the agency's processing time frames), they elect:

* * * * *

(b) All uniformed service members who either enter service on or after January 1, 2018, or re-enter service after a separation from service of 60 or more calendar days after having been covered by BRS at the time of separation will automatically have 5% of their basic pay contributed to the member's traditional TSP balance (default employee contribution) beginning the first full pay period following the date that is 60 days after the member's PEBD unless they elect by the end of that 60 day period:

* * * * *

§ 1600.35 [Amended]

■ 11. Amend § 1600.35 as follows:

■ a. In paragraph (a) introductory text, remove ''must be made on'' and add in its place ''may be made on the TSP website or by completing''; and

■ b. In paragraph (d), remove ''TSP'' and add in its place ''TSP record keeper''.

§ 1600.37 [Amended]

■ 12. Amend § 1600.37 as follows:

■ a. In the introductory text, remove ''The Board'' and add in its place ''The TSP record keeper''; and

■ b. In paragraph (c), remove ''The fund'' and ''a contribution allocation'', and add in their places ''The TSP core fund'' and ''an investment election'', respectively.

PART 1601—PARTICIPANTS' CHOICE OF TSP FUNDS

■ 13. The authority citation for part 1601 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8438, 8474(b)(5) and (c)(1).

■ 14. Amend § 1601.1, in paragraph (b), as follows:

■ a. In the definition of ''Acknowledgment of risk'', remove ''TSP Fund'' and add in its place ''TSP core fund''; and

■ b. Add definitions in alphabetical order for ''Fund reallocation'' and ''Fund transfer''.

The additions read as follows:

§ 1601.1 Definitions.

* * * * *

(b) * * *

Fund reallocation means the total redistribution of a participant's existing account balance among the TSP core funds.

Fund transfer means either:

(i) The transfer of money from one or more TSP core fund(s) to another TSP core fund(s); or

(ii) The transfer of money from the TSP core funds to the mutual fund window (and vice versa).

■ 15. Revise subpart B to read as follows:

Subpart B—Investing Future Deposits

Sec.

1601.11 Applicability.
1601.12 Investing future deposits in the TSP core funds.
1601.13 Elections.

Subpart B—Investing Future Deposits

§ 1601.11 Applicability.

This subpart applies only to the investment of future deposits to the TSP core funds, including contributions, loan payments, and rollovers from traditional IRAs and eligible employer plans; it does not apply to fund reallocations or fund transfers within the TSP core funds, which is covered in subpart C of this part, or fund transfers to and from the mutual fund window,

which is covered in subpart F of this part.

§ 1601.12 Investing future deposits in the TSP core funds.

(a) *Allocation.* Future deposits in the TSP, including contributions, loan payments, and rollovers from traditional IRAs and eligible employer plans, will be allocated among the TSP core funds based on the most recent investment election on file for the participant.

(b) *TSP core funds availability.* All participants may elect to invest all or any portion of their deposits in any of the TSP core funds.

§ 1601.13 Elections.

(a) *Investment election.* Each participant may indicate his or her choice of TSP core funds for the allocation of future deposits in the form and manner prescribed by the TSP record keeper. Paragraphs (a)(1) through (5) of this section apply to investment elections:

(1) Investment elections must be made in one percent increments. The sum of the percentages elected for all of the TSP core funds must equal 100 percent.

(2) The percentage elected by a participant for investment of future deposits in a TSP core fund will be applied to all sources of contributions and rollovers from traditional IRAs and eligible employer plans. A participant may not make different percentage elections for different sources of contributions.

(3) The following default investment rules shall apply to civilian participants:

(i) All deposits made on behalf of a civilian participant enrolled prior to September 5, 2015, who does not have an investment election in effect will be invested in the G Fund. A civilian participant who is enrolled prior to September 5, 2015, and subsequently rehired on or after September 5, 2015, and has a positive account balance will be considered enrolled prior to September 5, 2015 for purposes of this paragraph (a)(3)(i); and

(ii) All deposits made on behalf of a civilian participant first enrolled on or after September 5, 2015, who does not have an investment election in effect will be invested in the age-appropriate TSP Lifecycle Fund.

(iii) A civilian participant enrolled prior to September 5, 2015, who elects for the first time to invest in a TSP core fund other than the G Fund must execute an acknowledgement of risk in accordance with § 1601.33.

(4) The default investment rule in paragraphs (a)(4)(i) through (iv) of this section apply to uniformed services participants:

(i) All deposits made on behalf of a uniformed services participant who first entered service prior to January 1, 2018, has not elected to be covered by BRS, and does not have an investment election in effect will be invested in the G Fund.

(ii) All deposits made on behalf of a uniformed services participant who first entered service on or after January 1, 2018, and who does not have an investment election in effect will be invested in the age-appropriate TSP Lifecycle Fund.

(iii) If a uniformed services participant makes an election to be covered by BRS as described in 5 CFR 1600.14 and does not have an investment election in effect at the time of the election, then all deposits made after the date of such election will be invested in the age-appropriate TSP Lifecycle Fund. Deposits made prior to the date of the election will remain invested in the G Fund.

(iv) A uniformed services participant who first entered service prior to January 1, 2018, and has not made an election to be covered by the BRS who elects for the first time to invest in a TSP core fund other than the G Fund must execute an acknowledgement of risk in accordance with § 1601.33.

(5) Once an investment election becomes effective, it remains in effect until it is superseded by a subsequent investment election or the participant's account balance is reduced to zero. If a rehired participant has a positive account balance and an investment election in effect, then the participant's investment election will remain in effect until a new election is made. If, however, the participant (other than a participant described in paragraph (a)(4)(i) of this section) has a zero account balance, then the participant's contributions will be allocated to the age-appropriate TSP Lifecycle Fund until a new investment election is made.

(b) *Effect of rejection of investment election.* If a participant does not correctly complete an investment election, the attempted investment election will have no effect. The TSP record keeper will provide the participant with a written statement of the reason the transaction was rejected.

(c) *Contribution elections.* A participant may designate the amount or type of employee contributions he or she wishes to make to the TSP or may stop contributions only in accordance with 5 CFR part 1600.

■ 16. Revise subpart C to read as follows:

Subpart C—Fund Reallocations and Fund Transfers

Sec.
1601.21 Applicability.
1601.22 Methods of requesting a fund reallocation.
1601.23 Methods of requesting a fund transfer.

Subpart C—Fund Reallocations and Fund Transfers

§ 1601.21 Applicability.

This subpart applies only to fund reallocations and fund transfers involving the movement of money from TSP core fund to one (or more) TSP core fund(s); it does not apply to the investment of future deposits, which is covered in subpart B of this part, nor does it apply to fund transfers involving the movement of money from the TSP core funds to the mutual fund window (and vice versa), which is covered in subpart F of this part.

§ 1601.22 Methods of requesting a fund reallocation.

(a) Participants may make a fund reallocation in the form and manner prescribed by the TSP record keeper. Paragraphs (a)(1) and (2) of this section apply to a fund reallocation request:

(1) Fund reallocation requests must be made in whole percentages (one percent increments). The sum of the percentages elected for all of the TSP core funds must equal 100 percent.

(2) The percentages elected by the participant will be applied to the balances in each source of contributions and to both traditional and Roth balances and tax-deferred and tax-exempt balances on the effective date of the fund reallocation.

(b) A fund reallocation request has no effect on deposits made after the effective date of the fund reallocation request; subsequent deposits will continue to be allocated among the TSP core funds in accordance with the participant's investment election made under subpart B of this part.

(c) If a fund reallocation is found to be invalid pursuant to § 1601.34, the purported fund reallocation will not be made.

§ 1601.23 Methods of requesting a fund transfer.

(a) Participants may make a fund transfer from one or more TSP core fund to a different TSP core fund(s) in the form and manner prescribed by the TSP record keeper. Paragraphs (a)(1) and (2) of this section apply to a fund transfer request:

(1) Fund transfer requests when selecting the TSP core funds to transfer

out of, may be made in whole percentages or in dollars. When selecting the TSP core funds to transfer into, elections must be made in whole percentages (one percent increments). The sum of the percentages elected to transfer into for all of the TSP core funds must equal 100 percent.

(2) The percentages elected by the participant will be applied to the balances in each source of contributions and to both traditional and Roth balances and tax-deferred and tax-exempt balances on the effective date of the fund transfer.

(b) A fund transfer request has no effect on deposits made after the effective date of the fund transfer request; subsequent deposits will continue to be allocated among the TSP core funds in accordance with the participant's investment election made under subpart B of this part.

(c) If a fund transfer is found to be invalid pursuant to § 1601.34, the purported fund transfer will not be made.

■ 17. Revise subpart D to read as follows:

Subpart D—Investment Elections and Fund Reallocation and Fund Transfer Requests

Sec.
1601.31 Applicability.
1601.32 Timing and posting dates.
1601.33 Acknowledgment of risk.
1601.34 Error correction.

Subpart D—Investment Elections and Fund Reallocation and Fund Transfer Requests

§ 1601.31 Applicability.

This subpart applies to investment elections made under subpart B of this part, fund reallocations and fund transfers made under subpart C of this part, and fund transfers made under subpart F of this part.

§ 1601.32 Timing and posting dates.

(a) *Posting dates.* The date on which an investment election or fund reallocation or fund transfer request (transaction request) is processed is subject to a number of factors, including some that are outside of the control of the TSP, such as power outages, the failure of telephone service, unusually heavy transaction volume, and acts of God. These factors also could affect the availability of the TSP website and the ThriftLine. Therefore, the TSP cannot guarantee that a transaction request will be processed on a particular day. However, the TSP will process transaction requests under ordinary circumstances described in paragraphs (a)(1) through (4) of this section:

(1) A transaction request other than an investment election request entered into the TSP record keeping system by a participant who uses the TSP website or the ThriftLine, before 12 noon eastern time of any business day, will ordinarily be posted that business day. A transaction request other than an investment election request entered into the system at or after 12 noon eastern time of any business day will ordinarily be posted on the next business day. A transaction request that is an investment election request will ordinarily be posted immediately and be effective the next business day.

(2) A transaction request made on the TSP website or the ThriftLine on a non-business day will ordinarily be posted on the next business day.

(3) A transaction request made on a paper TSP form will ordinarily be posted under the rules in paragraph (a)(1) of this section, based on when the TSP record keeper enters the form into the TSP system. The TSP record keeper ordinarily enters such forms into the system within 48 hours of their receipt.

(4) In most cases, the share price(s) applied to a fund reallocation or fund transfer request is the value of the shares on the date the relevant transaction is posted. In some circumstances, such as error correction, the share price(s) for an earlier date will be used.

(b) *Limit.* There is no limit on the number of investment election requests. A participant may make a total of two unrestricted fund reallocations and/or fund transfers per account (*e.g.,* civilian or uniformed services), per calendar month. A fund reallocation or fund transfer will count toward the monthly total on the date posted by the TSP record keeper and not on the date requested by a participant. After a participant has made a total of two fund reallocations and/or fund transfers in a calendar month, the participant may make additional fund reallocations or fund transfers only into the G Fund until the first day of the next calendar month.

§ 1601.33 Acknowledgment of risk.

(a) Uniformed services participants who first entered service prior to January 1, 2018, and who have not elected to be covered by BRS and civilian participants who enrolled prior to September 5, 2015, must execute an acknowledgement of risk in order to invest in a TSP core fund other than the G Fund. If a required acknowledgment of risk has not been executed, no transactions involving the fund(s) for which the acknowledgment is required will be accepted.

(b) The acknowledgment of risk may be executed in association with an investment election, a fund reallocation, or a fund transfer in the form and manner prescribed by the TSP record keeper.

§ 1601.34 Error correction.

Errors in processing investment elections and fund reallocation or fund transfer requests, or errors that otherwise cause money to be invested in the wrong investment fund, will be corrected in accordance with the error correction regulations found at 5 CFR part 1605.

■ 18. Revise § 1601.40 to read as follows:

§ 1601.40 Lifecycle Funds.

The Executive Director will establish TSP Lifecycle Funds, which are target date asset allocation portfolios. The TSP Lifecycle Funds will invest solely in the funds established pursuant to 5 U.S.C. 8438(b)(1)(A)–(E).

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

■ 19. The authority citation for part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, 8432d, 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104–106, 110 Stat. 186 and § 7202(m)(2) of Public Law 101–508, 104 Stat. 1388.

■ 20. Amend § 1605.1, in paragraph (b), as follows:
■ a. Revise the definition of ''Breakage'';
■ b. Add in alphabetical order a definition for ''Earnings'';
■ c. Revise the definitions of ''Error'' and ''Late contributions''.

The revisions and addition read as follows:

§ 1605.1 Definitions.

* * * * *

(b) * * *

Breakage means the loss incurred or the gain realized on makeup or late contributions.

* * * * *

Earnings means both positive and negative fund performance attributable to differences in TSP core fund share prices.

Error means any act or omission by the Board, the TSP record keeper, or the participant's employing agency that is not in accordance with applicable statutes, regulations, or administrative procedures that are made available to employing agencies and/or TSP participants. It does not mean an act or omission caused by events that are

beyond the control of the Board, the TSP record keeper, or the participant's employing agency.

* * * * *

Late contributions means:

(i) Employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment;

(ii) Employee contributions that were timely reported to the TSP record keeper but were not timely posted to the participant's account by the TSP record keeper because the payment record on which they were submitted contained errors;

(iii) Agency matching contributions attributable to employee contributions referred to in paragraph (i) or (ii) of this definition; and

(iv) Delayed agency automatic (1%) contributions.

* * * * *

■ 21. Revise § 1605.2 to read as follows:

§ 1605.2 Calculating, posting, and charging breakage on late contributions and loan payments.

(a) *General criteria.* The TSP will calculate breakage on late contributions, makeup agency contributions, and loan payments as described by § 1605.15(b). This breakage calculation is subject to the criteria in paragraphs (a)(1) and (2) of this section:

(1) The TSP record keeper will not calculate breakage if contributions or loan payments are posted within 30 days of the ''as of'' date, or if the total amount on a late payment record or the total agency contributions on a current payment record is less than $1.00; and

(2) The TSP record keeper will not take the participant's fund reallocations and fund transfers into account when determining breakage.

(b) *Calculating breakage.* The TSP record keeper will calculate breakage for all contributions or loan payment corrections as follows:

(1) Use the participant's investment election on file for the ''as of'' date to determine how the funds would have been invested, going back to the earliest daily share prices available. If there is no investment election on file, or one cannot be derived based on the investment of contributions, the TSP record keeper will consider the funds to have been invested in the default investment fund in effect for the participant on the ''as of'' date;

(2) Determine the number of shares of the applicable investment funds the participant would have received had the contributions or loan payments been made on time. If the ''as of'' date is before TSP account balances were converted to shares, this determination will be the number of shares the participant would have received on the conversion date, and will include the daily earnings the participant would have received had the contributions or loan payments been made on the ''as of'' date;

(3) Determine the dollar value on the posting date of the number of shares the participant would have received had the contributions or loan payments been made on time. If the contributions or loan payments would have been invested in a Lifecycle fund that is retired on the posting date, the share price of the L Income Fund will be used. The dollar value shall be the number of shares the participant would have received had the contributions or loan payments been made on time multiplied by the share price; and

(4) The difference between the dollar value of the contribution or loan payment on the posting date and the dollar value of the contribution or loan payment on the ''as of'' date is the breakage.

(c) *Posting contributions and loan payments.* Makeup and late contributions, late loan payments, and breakage, will be posted to the participant's account according to his or her investment election on file for the posting date. If there is no investment election on file for the posting date, they will be posted to the default investment fund in effect for the participant.

(d) *Charging breakage.* If the dollar amount posted to the participant's account is greater than the dollar amount of the makeup or late contribution or late loan payment, the TSP record keeper will charge the agency the additional amount. If the dollar amount posted to the participant's account is less than the dollar amount of the makeup or late contribution, or late loan payment, the difference between the amount of the contribution and the amount posted will be forfeited to the TSP.

(e) *Posting of multiple contributions.* If the TSP record keeper posts multiple makeup or late contributions or late loan payments with different ''as of'' dates for a participant on the same business day, the amount of breakage charged to the employing agency or forfeited to the TSP will be determined separately for each transaction, without netting any gains or losses attributable to different ''as of'' dates. In addition, gains and losses from different sources of contributions or different TSP core funds will not be netted against each other. Instead, breakage will be determined separately for each as-of date, TSP core fund, and source of contributions.

§ 1605.3 [Amended]

■ 22. Amend § 1605.3 as follows:

■ a. In paragraph (a), remove ''TSP'' and add in its place ''TSP record keeper'', remove ''contribution allocation'' and add in its place ''investment election'', and remove ''interfund transfer'' and add in its place ''fund reallocation and fund transfer''; and

■ b. In paragraphs (b) and (c), remove ''TSP'' and add in its place ''TSP record keeper''.

§ 1605.11 [Amended]

■ 23. Amend § 1605.11 as follows:

■ a. In paragraph (a), remove ''Board'' and add in its place ''Board and/or the TSP record keeper'';

■ b. In paragraph (b) introductory text, remove ''Agency Automatic (1%) Contributions'' and add in its place ''agency automatic (1%) contributions'' and remove ''Agency Matching Contributions'' and add in its place ''agency matching contributions'';

■ c. In paragraph (b)(2), remove ''TSP'' and add in its place ''TSP record keeper'';

■ d. In paragraph (c)(1), remove ''agency'' and add in its place ''employing agency'';

■ e. In paragraph (c)(4), remove the last two sentences.

■ f. In paragraph (c)(5), remove ''contribution allocation'' and add in its place ''investment election'' and remove ''TSP Fund'' and add in its place ''TSP core fund'';

■ g. In paragraph (c)(9), in the second to last sentence, remove ''matching contributions'' and add in its place ''agency matching contributions''; and

■ h. In paragraph (c)(13), remove ''TSP'' and add in its place ''TSP record keeper''.

■ 24. Amend § 1605.12 as follows:

■ a. Revise paragraphs (a), (b) introductory text, (c) introductory text, (c)(1) introductory text, (c)(1)(i), (c)(2) introductory text, (c)(2)(ii), and (d)(4);

■ b. Add a heading for paragraph (f); and

■ c. Revise paragraph (f)(1).

The revisions and addition read as follows:

§ 1605.12 Removal of erroneous contributions.

(a) *Applicability.* This section applies to the removal of funds erroneously contributed to the TSP. This action is called a negative adjustment, and agencies may only request negative adjustments of erroneous contributions made on or after January 1, 2000. Excess contributions addressed by this section include, for example, excess employee contributions that result from employing agency error and excess

employer contributions. This section does not address excess contributions resulting from a FERCCA correction; those contributions are addressed in § 1605.14.

(b) *Method of correction.* Negative adjustment records must be submitted by employing agencies in accordance with this part and any other procedures provided by the Board and/or the TSP record keeper.

* * * * *

(c) *Processing negative adjustments.* To determine current value, a negative adjustment will be allocated among the TSP core funds as it would have been allocated on the attributable pay period (as reported by the employing agency). The TSP record keeper will, for each source of contributions and TSP core fund:

(1) If the attributable pay date for the erroneous contribution is on or before the date TSP accounts were converted to shares (and on or after January 1, 2000), the TSP record keeper will, for each source of contributions and investment fund:

(i) Determine the dollar value of the amount to be removed by using the daily returns for the applicable TSP core fund;

* * * * *

(2) If the attributable pay date of the negative adjustment is after the date TSP accounts were converted to shares, the TSP record keeper will, for each source of contributions and TSP core fund:

* * * * *

(ii) Multiply the price per share on the date the adjustment is posted by the number of shares calculated in paragraph (c)(2)(i) of this section. If the contribution was erroneously contributed to a Lifecycle fund that is retired on the date the adjustment is posted, the share price of the L Income Fund will be used.

(d) * * *

(4) If all employee contributions are removed from a participant's account under the rules set forth in this section, the earnings attributable to those contributions will remain in the account until the participant removes them with a TSP withdrawal. If the participant is not eligible to maintain a TSP account, the employing agency must submit an employee data record to the TSP record keeper indicating that the participant has separated from Government service (this will allow the TSP-ineligible participant to make a post-employment distribution election).

* * * * *

(f) *Multiple negative adjustments.* (1) If multiple negative adjustments for the same attributable pay date for a participant are posted on the same business day, the amount removed from the participant's account and used to offset TSP administrative expenses, or returned to the employing agency, will be determined separately for each adjustment. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. In addition, for a negative adjustment for any attributable pay date, gains and losses from different sources of contributions or different TSP core funds will not be netted against each other. Instead, for each attributable pay date each source of contributions and each TSP core fund will be treated separately for purposes of these calculations. The amount computed by applying the rules in this section will be removed from the participant's account pro rata from all funds, by source, based on the allocation of the participant's account among the TSP core funds when the transaction is posted; and

* * * * *

■ 25. Amend § 1605.13 as follows:

■ a. In paragraph (a)(3), remove ''contribution allocation'' and add in its place ''investment election'';

■ b. In paragraph (b)(3), remove ''contribution allocation'' and add in its place ''investment election''; and

■ c. Revise paragraphs (d) and (e).

The revisions read as follows:

§ 1605.13 Back pay awards and other retroactive pay adjustments.

* * * * *

(d) *Prior withdrawal of TSP account.* If a participant has received a post-employment distribution in any form other than an annuity, and the separation from Government service upon which the post-employment distribution was based is reversed, resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount distributed to his or her TSP account. The right to restore the distributed funds will expire if the participant does not notify the TSP record keeper within 90 days of reinstatement. If the participant returns the funds that were distributed, the number of shares purchased will be determined by using the share price of the applicable investment fund on the posting date. Restored funds will not incur breakage.

(e) *Reinstating a loan.* Participants who are covered by paragraph (d) of this section and who elect to return funds that were distributed may also elect to reinstate a loan which was previously declared to be a loan foreclosure.

■ 26. Amend § 1605.14 by revising paragraphs (a)(2), (b)(4), (c)(3), (f)(3), and (g)(2) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

(a) * * *

(2) All agency contributions that were made to a CSRS participant's account will be forfeited. An employing agency may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

(b) * * *

(4) If the retirement coverage correction is a FERCCA correction, the employing agency must submit makeup employee contributions on late payment records. The participant is entitled to breakage on contributions from all sources. Breakage will be calculated pursuant to § 1605.2. If the retirement coverage correction is not a FERCCA correction, the employing agency must submit makeup employee contributions on current payment records; in such cases, the employee is not entitled to breakage. Agency makeup contributions may be submitted on either current or late payment records; and

* * * * *

(c) * * *

(3) The TSP record keeper will consider a participant to be separated from Government service for all TSP purposes and the employing agency must submit an employee data record to reflect separation from Government service. If the participant has an outstanding loan, it will be subject to the provisions of part 1655 of this chapter. The participant may make a TSP post-employment distribution election pursuant to 5 CFR part 1650, subpart B, and the distribution will be subject to the provisions of 5 CFR 1650.60(b).

* * * * *

(f) * * *

(3) The employing agency must, under the rules of § 1605.11, make agency automatic (1%) contributions and agency matching contributions on employee contributions that were made while the participant was misclassified; and

* * * * *

(g) * * *

(2) All agency contributions that were made to a non-BRS participant's account will be forfeited. An employing service may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

§ 1605.15 [Amended]

■ 27. Amend § 1605.15 as follows:
■ a. In paragraph (b), remove ''TSP'' and add in its place ''TSP record keeper''; and
■ b. In paragraph (d), remove ''TSP'' and add in its place ''TSP record keeper''.
■ 28. Amend § 1605.16 by revising paragraphs (a)(1) and (2) and (b)(1) and (2) to read as follows:

§ 1605.16 Claims for correction of employing agency errors; time limitations.

(a) * * *

(1) Upon discovery of an error made within the past six months involving the correct or timely remittance of payments to the TSP record keeper (other than a retirement system misclassification error, as covered in paragraph (c) of this section), an employing agency must promptly correct the error on its own initiative. If the error was made more than six months before it was discovered, the agency may exercise sound discretion in deciding whether to correct it, but, in any event, the agency must act promptly in doing so.

(2) For errors involving incorrect dates of birth caused by employing agency error that result in default investment in the wrong L Fund, the employing agency must promptly notify the TSP record keeper that the participant is entitled to breakage if the error is discovered within 30 days of either the date the TSP record keeper provides the participant with a notice reflecting the error or the date the TSP or its record keeper makes available on its website a participant statement reflecting the error, whichever is earlier. If it is discovered after that time, the employing agency may use its sound discretion in deciding whether to pay breakage, but, in any event, must act promptly in doing so.

(b) * * *

(1) If an agency fails to discover an error of which a participant has knowledge involving the correct or timely remittance of a payment to the TSP record keeper (other than a retirement system misclassification error as covered by paragraph (c) of this section), the participant may file a claim with his or her employing agency to have the error corrected without a time limit. The agency must promptly correct any such error for which the participant files a claim within six months of its occurrence; if the participant files a claim to correct any such error after that time, the agency may do so at its sound discretion.

(2) For errors involving incorrect dates of birth that result in default investment in the wrong L Fund of which a participant or beneficiary has knowledge, he or she may file a claim for breakage with the employing agency no later than 30 days after either the date the TSP record keeper provides the participant with a notice reflecting the error or the date the TSP or its record keeper makes available on its website a participant statement reflecting the error, whichever is earlier. The employing agency must promptly notify the TSP record keeper that the participant is entitled to breakage.

* * * * *

■ 29. Amend § 1605.17 by revising paragraphs (b) and (c)(1) through (3) to read as follows:

§ 1605.17 Redesignation and recharacterization.

* * * * *

(b) *Method of correction.* The employing agency must promptly submit a redesignation record or a recharacterization record in accordance with this part and the procedures provided to employing agencies by the Board and/or the TSP record keeper in bulletins or other guidance.

(c) * * *

(1) Upon receipt of a properly submitted redesignation record, the TSP record keeper shall treat the erroneously submitted contribution (and associated positive earnings) as if the contribution had been made to the correct balance on the date that it was contributed to the wrong balance. The TSP record keeper will adjust the participant's traditional balance and the participant's Roth balance accordingly. The TSP record keeper will also adjust the participant's Roth initiation date as necessary.

(2) Upon receipt of a properly submitted recharacterization record or recharacterization request, the TSP record keeper will update the tax characterization of the erroneously characterized contribution.

(3) Agency automatic (1%) contributions and agency matching contributions cannot be redesignated as Roth contributions or recharacterized as tax-exempt contributions.

* * * * *

■ 30. Revise § 1605.21 to read as follows:

§ 1605.21 Plan-paid breakage and other corrections.

(a) *Plan-paid breakage.* (1) Subject to paragraph (a)(3) of this section, if, because of an error committed by the Board or the TSP record keeper, a participant's account is not credited or charged with the investment gains or losses the account would have received had the error not occurred, the account will be credited accordingly.

(2) Errors that warrant the crediting of breakage under paragraph (a)(1) of this section include, but are not limited to:

(i) Delay in crediting contributions or other money to a participant's account;

(ii) Improper issuance of a loan or TSP withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong investment fund(s).

(3) A participant will not be entitled to breakage under paragraph (a)(1) of this section if the participant had the use of the money on which the investment gains would have accrued.

(4) If the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP record keeper's error, the TSP record keeper will compute gains or losses under paragraph (a)(1) of this section for the relevant period based upon the investment funds in which the affected money would have been invested had the error not occurred. If the participant did not have, and should not have had, a TSP account during this period, then the TSP will use the rate of return set forth in § 1605.2(b) for the relevant period and return the money to the participant.

(b) *Other corrections.* The Executive Director may, in his or her discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section, including payment of breakage, if the Executive Director determines that the correction would serve the interests of justice and fairness and equity among all participants of the TSP.

§ 1605.22 [Amended]

■ 31. Amend § 1605.22, in the last sentence of paragraph (d)(1), by removing ''record keeper's'' and adding in its place ''TSP record keeper's''.
■ 32. Amend § 1605.31 by revising paragraphs (c)(1) through (5) and (d) to read as follows:

§ 1605.31 Contributions missed as a result of military service.

* * * * *

(c) * * *

(1) The employee is entitled to receive the agency automatic (1%) contributions that he or she would have received had he or she remained in civilian service or pay status. Within 60 days of the employee's reemployment or restoration to pay status, the employing agency must calculate the makeup agency automatic (1%) contributions and report those contributions to the record keeper, subject to any reduction in agency

automatic (1%) contributions required by paragraph (c)(5) of this section.

(2) An employee who contributed to a uniformed services TSP account during the period of military service is also immediately entitled to receive makeup agency matching contributions to his or her civilian account for the employee contributions to the uniformed services account that were deducted from his or her basic pay, subject to any reduction in agency matching contributions required by paragraph (c)(4) of this section. However, an employee is not entitled to receive makeup agency matching makeup contributions on contributions that were deducted from his or her incentive pay or special pay, including bonus pay, while performing military service.

(3) An employee who makes up missed contributions is entitled to receive attributable makeup agency matching contributions (unless the employee has already received the maximum amount of matching contributions, as described in paragraphs (c)(2) and (4) of this section).

(4) If the employee received uniformed services agency matching contributions, the makeup agency matching contributions will be reduced by the amount of the uniformed services agency matching contributions.

(5) If the employee received uniformed services agency automatic (1%) contributions, the agency automatic (1%) contributions will be reduced by the amount of the uniformed services agency automatic (1%) contributions.

(d) *Breakage.* The employee is entitled to breakage on agency contributions made under paragraph (c) of this section. Breakage will be calculated based on the investment election(s) on file for the participant during the period of military service.

PART 1620—EXPANDED AND CONTINUING ELIGIBILITY

■ 33. The authority citation for part 1620 continues to read as follows:

Authority: 5 U.S.C. 8474(b)(5) and (c)(1). Subpart C also issued under 5 U.S.C. 8440a(b)(7), 8440b(b)(8), and 8440c(b)(8). Subpart D also issued under sec. 1043(b) of Pub. L. 104–106, 110 Stat. 186, and sec. 7202(m)(2) of Pub. L. 101–508, 104 Stat. 1388. Subpart E also issued under 5 U.S.C. 8432b(1) and 8440e.

■ 34. Revise § 1620.3 to read as follows:

§ 1620.3 Contributions.

The employing agency is responsible for transmitting to the TSP record keeper, in accordance with the TSP record keeper's procedures, any employee and employer contributions that are required by this part.

§ 1620.14 [Amended]

■ 35. Amend § 1620.14 as follows:

■ a. In the section heading, remove ''record keeper'' and add in its place ''TSP record keeper''; and

■ b. In paragraph (b), remove ''Board'' and add in its place ''its''.

§ 1620.22 [Amended]

■ 36. Amend § 1620.22 as follows:

■ a. In paragraph (a) introductory text, remove ''withdrawal'' and add in its place ''distribution''; and

■ b. In paragraph (a)(2) introductory text, remove ''withdrawal'' and add in its place ''distribution''.

■ 37. Revise § 1620.35 to read as follows:

§ 1620.35 Loan payments.

NAF instrumentalities must deduct and transmit TSP loan payments for employees who elect to be covered by CSRS or FERS to the TSP record keeper in accordance with 5 CFR part 1655 and the TSP record keeper's procedures. Loan payments may not be deducted and transmitted for employees who elect to be covered by the NAF retirement system. Such employees will be considered to have separated from Government service and may continue making loan repayments in accordance with 5 CFR part 1655 and the TSP record keeper's procedures.

§ 1620.41 [Amended]

■ 38. Amend § 1620.41, in the definition of ''Separate from civilian service'', by removing ''31'' and adding in its place ''60''.

§ 1620.42 [Amended]

■ 39. Amend § 1620.42, in paragraph (c)(1), by removing the word ''form''.

§ 1620.43 [Amended]

■ 40. Amend § 1620.43, in the section heading and paragraphs (a) and (c), by removing ''record keeper'' and adding in its place ''TSP record keeper''.

■ 41. Revise § 1620.45 to read as follows:

§ 1620.45 Suspending TSP loans, restoring post-employment distributions, and reversing loan foreclosures.

(a) *Suspending TSP loans during nonpay status.* If the TSP record keeper is notified that an employee entered into a nonpay status to perform military service, any outstanding TSP loan from a civilian TSP account will be suspended, that is, it will not be declared a loan foreclosure while the employee is performing military service.

(1) Interest will accrue on the loan balance during the period of suspension. When the employee returns to civilian pay status, the employing agency will resume deducting loan payments from the participant's basic pay and the TSP record keeper will reamortize the loan (which will include interest accrued during the period of military service). The maximum loan repayment term will be extended by the employee's period of military service. Consequently, when the employee returns to pay status, the TSP record keeper must receive documentation to show the beginning and ending dates of military service.

(2) The TSP record keeper may close the loan account and declare it to be a loan foreclosure if the TSP record keeper does not receive documentation that the employee entered into nonpay status. However, this can be reversed in accordance with paragraph (c) of this section.

(b) *Restoring post-employment distributions.* An employee who separates from civilian service to perform military service and who receives an automatic payment pursuant to § 1650.11 may return to the TSP an amount equal to the amount of the payment. The employee must notify the TSP record keeper of his or her intent to return the distributed funds within 90 days of the date the employee returns to civilian service or pay status; if the employee is eligible to return a distribution, the TSP record keeper will then inform the employee of the actions that must be taken to return the funds.

(c) *Reversing loan foreclosures.* An employee may request that a loan foreclosure be reversed it resulted from the employee's separation or placement in nonpay status to perform military service. The TSP record keeper will reverse the loan foreclosure under the process described as follows:

(1) An employee who received a post-employment distribution when he or she separated to perform military service can have a loan foreclosure reversed only if the distributed amount is returned as described in paragraph (b) of this section;

(2) A loan foreclosure can be reversed either by reinstating the loan or by repaying it in full. The TSP loan can be reinstated only if the employee agrees to repay the loan within the maximum loan repayment term plus the length of military service, and if, after reinstatement of the loan, the employee will have no more than two outstanding loans, only one of which is a residential loan; and

(3) The employee must notify the TSP record keeper of his or her intent to

reverse a loan foreclosure within 90 days of the date the employee returns to civilian service or pay status; if the employee is eligible to reverse a loan foreclosure, the TSP record keeper will then inform the employee of the actions that must be taken to reverse the distribution.

(d) *Breakage.* Employees will not receive breakage on amounts returned to their accounts under this section.

§ 1620.46 [Amended]

■ 42. Amend § 1620.46, in paragraphs (b) an (d), by removing ''record keeper'' and adding in its place ''TSP record keeper''.

PART 1631—AVAILABILITY OF RECORDS

Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, 5 U.S.C. 552

■ 43. The authority citation for subpart A of part 1631 continues to read as follows:

Authority: 5 U.S.C. 552.

■ 44. Amend § 1631.3 by revising paragraphs (a)(3) and (7) through (11) to read as follows:

§ 1631.3 Organization and functions.

(a) * * *

(3) The Office of Participant Services;

* * * * *

(7) The Office of Planning and Risk;

(8) The Office of External Affairs;

(9) The Office of Chief Financial Officer;

(10) The Office of Resource Management; and

(11) The Office of Technology Services.

* * * * *

PART 1640—PERIODIC PARTICIPANT STATEMENTS

■ 45. The authority citation for part 1640 continues to read as follows:

Authority: 5 U.S.C. 8439(c)(1) and (c)(2), 5 U.S.C. 8474(b)(5) and (c)(1).

§ 1640.2 [Amended]

■ 46. Amend § 1640.2 by removing ''Board'' and adding in its place ''TSP or its record keeper''.

■ 47. Revise § 1640.3 to read as follows:

§ 1640.3 Statement of individual account.

In the quarterly statements, the TSP or its record keeper will furnish each participant with the following information concerning the participant's individual account:

(a) Name and account number under which the account is established.

(b) Statement whether the participant has a beneficiary designation on file with the TSP record keeper.

(c) Investment election that is current at the end of the statement period.

(d) Beginning and ending dates of the period covered by the statement.

(e) The following information for and, as of the close of business on the ending date of, the period covered by the statement:

(1) The total account balance and tax-exempt balance, if applicable;

(2) The account balance for each source of contributions;

(3) The account balance and activity in each TSP core fund, including the dollar amount of the transaction, the share price, and the number of shares;

(4) Loan information and activity, if applicable; and

(5) The mutual fund window account balance, if applicable.

(f) Any other information concerning the account that the Executive Director determines should be included in the statement.

■ 48. Revise § 1640.4 to read as follows:

§ 1640.4 Account transactions.

(a) Where relevant, the following transactions will be reported in each individual account statement:

(1) Contributions;

(2) Withdrawals;

(3) Forfeitures;

(4) Loan disbursements and repayments;

(5) Fund reallocations and fund transfers among TSP core funds;

(6) Adjustments to prior transactions;

(7) Rollovers from traditional individual retirement accounts (IRAs) and eligible employer plans within the meaning of section 402(c) of the Internal Revenue Code (26 U.S.C. 402(c)); and

(8) Any other transaction that the Executive Director determines will affect the status of the individual account.

(b) Where relevant, the statement will contain the following information concerning each transaction identified in paragraph (a) of this section:

(1) Type of transaction;

(2) TSP core funds affected;

(3) Amount of the transaction (in dollars); and

(4) Any other information the Executive Director deems relevant.

■ 49. Revise § 1640.5 to read as follows:

§ 1640.5 TSP core fund information.

The TSP or its record keeper will provide to each participant each calendar year information concerning each of the TSP core funds, including:

(a) A summary description of the type of investments made by the fund, written in a manner that will allow the participant to make an informed decision; and

(b) The performance history of the type of investments made by the fund, covering the five-year period preceding the date of the evaluation.

■ 50. Revise § 1640.6 to read as follows:

§ 1640.6 Methods of providing information.

The TSP or its record keeper will furnish the information described in this part to participants by making it available on the TSP website. A participant can request paper copies of that information by calling the ThriftLine, submitting a request through the TSP website, or by writing to the TSP record keeper.

PART 1645—CALCULATION OF SHARE PRICES

■ 51. The authority citation for part 1645 continues to read as follows:

Authority: 5 U.S.C. 8439(a)(3) and 8474.

■ 52. Revise § 1645.2 to read as follows:

§ 1645.2 Posting of transactions.

Contributions, loan payments, loan disbursements, withdrawals, fund reallocations, fund transfers, and other transactions will be posted in dollars and in shares by source and by TSP core fund to the appropriate individual account by the TSP record keeper, using the share price for the date the transaction is posted.

§ 1645.3 [Amended]

■ 53. Amend § 1645.3 as follows:

■ a. In the section heading and paragraph (a), remove ''TSP Fund'' and add in its place ''TSP core fund''; and

■ b. In paragraph (c), remove ''each TSP fund'' and add in its place ''each TSP core fund''.

■ 54. Amend § 1645.4 by revising the introductory text and paragraphs (a) and (c) to read as follows:

§ 1645.4 Administrative expenses attributable to each TSP core fund.

A portion of the administrative expenses accrued during each business day will be charged to each TSP core fund. A fund's respective portion of administrative expenses will be determined as follows:

(a) Accrued administrative expenses (other than those described in paragraph (b) of this section) will be reduced by:

(1) Accrued forfeitures;

(2) The fees described in §§ 1601.53(a) (relating to the mutual fund window), 1655.21 (relating to loans), 1653.6 (relating to retirement benefits court orders), and 1653.16 (relating to child support court orders) of this chapter; and

(3) Accrued earnings on forfeitures, abandoned accounts, unapplied deposits, and fees described in paragraph (a)(2) of this section.

* * * * *

(c) The amount of accrued administrative expenses not covered by forfeitures, fees, and earnings under paragraph (a) of this section, and not described in paragraph (b) of this section, will be charged on a pro rata basis to all TSP core funds, based on the respective fund balances on the last business day of the prior month end.

§ 1645.5 [Amended]

■ 55. Amend § 1645.5, in paragraph (a), as follows:

■ a. Remove ''TSP Fund'' and adding in its place ''TSP core fund''; and

■ b. Remove ''two decimal places'' and add in its place ''four decimal places''.

§ 1645.6 [Amended]

■ 56. Amend § 1645.6 by removing ''TSP Fund'' and adding in its place ''TSP core fund''.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 57. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

■ 58. Amend § 1650.1, in paragraph (b), as follows:

■ a. Remove the definition of ''Post-employment withdrawal''; and

■ b. Add in alphabetical order definitions for ''Post-employment distribution'' and ''TSP withdrawal''.

The additions read as follows:

§ 1650.1 Definitions.

* * * * *

(b) * * *

Post-employment distribution means a distribution from the TSP that is available to a participant who is separated from Government service.

* * * * *

TSP withdrawal means a post-employment distribution and/or an in-service withdrawal.

■ 59. Amend § 1650.2 by revising paragraphs (a) through (c), (d)(1) and (2), (f), and (h) to read as follows:

§ 1650.2 Eligibility and general rules for a TSP withdrawal.

(a) A participant who is separated from Government service can elect a distribution of all or a portion of his or her account balance by one or a combination of the distribution methods described in subpart B of this part.

(b) A post-employment distribution will not be paid unless TSP records indicate that the participant is separated from Government service. The TSP record keeper will, when possible, cancel a pending post-employment distribution election upon receiving information from an employing agency that a participant is no longer separated.

(c) A participant cannot make a full post-employment distribution of his or her account until any outstanding TSP loan has either been repaid in full or declared to be a loan foreclosure. An outstanding TSP loan will not affect a participant's eligibility for a partial post-employment distribution or an in-service withdrawal.

(d) * * *

(1) A participant who is reemployed in a TSP-eligible position on or before the 60th full calendar day after separation is not eligible for a distribution from his or her TSP account in accordance with subpart B of this part.

(2) A participant who is reemployed in a TSP-eligible position more than 60 full calendar days after separation and who made a post-employment distribution while separated may not make any additional post-employment distributions until he or she again separates from Government service.

* * * * *

(f) A participant can elect to have any portion of a single or installment payment that is not rolled over to an eligible employer plan, traditional IRA, or Roth IRA deposited directly, by electronic funds transfer (EFT), into a savings or checking account at a financial institution in the United States.

* * * * *

(h) A participant may elect to have his or her TSP withdrawal distributed from the participant's traditional balance only, Roth balance only, or pro rata from the participant's traditional and Roth balances. Any distribution from the traditional balance will be prorated between the tax-deferred balance and any tax-exempt balance. Any distribution from the Roth balance will be prorated between contributions in the Roth balance and earnings in the Roth balance. In addition, all TSP withdrawals will be distributed pro rata from all TSP core funds in which the participant's account is invested. All prorated amounts will be based on the balances in each TSP core fund or source of contributions on the day the TSP withdrawal is processed.

■ 60. Revise § 1650.3 to read as follows:

§ 1650.3 Frozen accounts.

(a) All distributions from the TSP are subject to the rules relating to spousal rights (found in subpart G of this part) and to domestic relations orders, alimony and child support legal process, and child abuse enforcement orders (found in 5 CFR part 1653).

(b) A participant may not take a distribution of any portion of his or her account balance if the account is frozen due to a pending retirement benefits court order, an alimony or child support enforcement order, or a child abuse enforcement order, or because a freeze has been placed on the account by the TSP record keeper for another reason.

■ 61. Revise § 1650.4 to read as follows:

§ 1650.4 Certification of truthfulness.

By completing a TSP withdrawal request, the participant certifies, under penalty of perjury, that all information provided to the TSP record keeper during the withdrawal process is true and complete, including statements concerning the participant's marital status and, where applicable, the spouse's email or physical address at the time the application is filed or the current spouse's consent to the withdrawal.

■ 62. Revise § 1650.5 to read as follows:

§ 1650.5 Returned funds.

If a TSP withdrawal is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 90 days, the returned funds will be forfeited to the TSP. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

■ 63. Revise § 1650.6 to read as follows:

§ 1650.6 Deceased participant.

(a) The TSP record keeper will cancel a pending TSP withdrawal request if it receives notice, in the form and manner prescribed by the TSP record keeper, that a participant is deceased. The TSP record keeper will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP.

(b) If the TSP record keeper processes a TSP withdrawal request before being notified that a participant is deceased, the funds cannot be returned to the TSP.

■ 64. Revise § 1650.11 to read as follows:

§ 1650.11 Post-employment distribution elections.

(a) Subject to the restrictions in this subpart, participants may elect a distribution of all or a portion of their TSP accounts in a single payment, a series of installment payments, a life

annuity, or any combination of these options.

(b) If a participant's account balance is less than $5.00 when he or she separates from Government service, the balance will automatically be forfeited to the TSP. The participant can reclaim the money by contacting the TSP record keeper and requesting the amount that was forfeited; however, TSP investment earnings will not be credited to the account after the date of the forfeiture.

(c) Provided that the participant has not submitted a post-employment distribution election prior to the date the automatic payment is processed, if a participant's vested account balance is less than $200 when he or she separates from Government service, the TSP record keeper will automatically pay the balance in a single payment to the participant at his or her TSP address of record. The participant will not be eligible for any other payment option or be allowed to remain in the TSP.

(d) Only one post-employment distribution election per account will be processed in any 30-calendar-day period.

■ 65. Revise § 1650.12 to read as follows:

§ 1650.12 Single payment.

Provided that, in the case of a partial distribution, the amount elected is not less than $1,000, a participant can elect a distribution of all or a portion of his or her account balance in a single payment.

■ 66. Amend § 1650.13 by revising paragraphs (a) introductory text, (a)(2), (f), and (g) to read as follows:

§ 1650.13 Installment payments.

(a) A participant can elect a distribution of all or a portion of the account balance in a series of substantially equal installment payments, to be paid on a monthly, quarterly, or annual basis in one of the following manners:

* * * * *

(2) An installment payment amount calculated based on life expectancy. Payments based on life expectancy are determined using the factors set forth in the Internal Revenue Service life expectancy tables codified at 26 CFR 1.401(a)(9)–9(b) and (c). The installment payment amount is calculated by dividing the account balance by the factor from the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments are to begin. This amount is then divided by the number of installment payments to be made per calendar year to yield the installment payment amount. In subsequent years, the installment payment amount is recalculated in January by dividing the prior December 31 account balance by the factor in the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments will be made. There is no minimum amount for an installment payment calculated based on this method.

* * * * *

(f) A participant receiving installment payments may change the investment of his or her account balance among the TSP core funds and may invest through the mutual fund window as provided in 5 CFR part 1601.

(g) Upon receiving information from an employing agency that a participant receiving installment payments is no longer separated, the TSP record keeper will cancel all pending and future installment payments.

■ 67. Amend § 1650.14 by revising paragraphs (a), (b), (d), (e), (g)(3)(iii), and (h) to read as follows:

§ 1650.14 Annuities.

(a) A participant electing a post-employment distribution can use all or a portion of his or her total account balance, traditional balance only, or Roth balance only to purchase a life annuity.

(b) If a participant has a traditional balance and a Roth balance and elects to use all or a portion of his or her total account balance to purchase a life annuity, the TSP record keeper must purchase two separate annuity contracts for the participant: One from the portion of the withdrawal distributed from his or her traditional balance and one from the portion of the withdrawal distributed from his or her Roth balance.

* * * * *

(d) Unless an amount must be paid directly to the participant to satisfy any applicable minimum distribution requirement of the Internal Revenue Code, the TSP record keeper will purchase the annuity contract(s) from the TSP's annuity vendor using the participant's entire account balance or the portion specified. In the event that a minimum distribution is required by section 401(a)(9) of the Internal Revenue Code before the date of the first annuity payment, the TSP record keeper will compute that amount prior to purchasing the annuity contract(s), and pay it directly to the participant.

(e) An annuity will provide a payment for life to the participant and, if applicable, to the participant's survivor, in accordance with the type of annuity chosen. The TSP annuity vendor will make the first annuity payment approximately 30 days after the TSP record keeper purchases the annuity.

* * * * *

(g) * * *

(3) * * *

(iii) A participant can establish that a person not described in paragraph (g)(3)(ii) of this section has an insurable interest in him or her by submitting, with the annuity request, an affidavit from a person other than the participant or the joint annuitant that demonstrates that the designated joint annuitant has an insurable interest in the participant (as described in paragraph (g)(3)(i) of this section).

* * * * *

(h) For each distribution election in which the participant elects to purchase an annuity with some or all of the amount distributed, if the TSP record keeper must purchase two annuity contracts, the type of annuity, the annuity features, and the joint annuitant (if applicable) selected by the participant will apply to both annuities purchased. For each distribution election, a participant cannot elect more than one type of annuity by which to receive a distribution, or portion thereof, from any one account.

* * * * *

■ 68. Amend § 1650.16 by revising paragraphs (c) and (d) to read as follows:

§ 1650.16 Required minimum distributions.

* * * * *

(c) In the event that a separated participant does not withdraw from his or her account an amount sufficient to satisfy his or her required minimum distribution for the year, the TSP record keeper will automatically distribute the necessary amount on or before the applicable date described in paragraph (a) of this section.

(d) The TSP record keeper will disburse required minimum distributions described in paragraph (c) of this section pro rata from the participant's traditional balance and the participant's Roth balance.

* * * * *

■ 69. Revise § 1650.17 to read as follows:

§ 1650.17 Changes and cancellation of a post-employment distribution request.

(a) *Before processing.* A pending post-employment distribution request can be cancelled if the cancellation is received and can be processed before the TSP record keeper processes the request. However, the TSP record keeper processes post-employment distribution requests each business day and those that are entered into the record keeping system by 12:00 noon eastern time will

ordinarily be processed that night; those entered after 12:00 noon eastern time will be processed the next business day. Consequently, a cancellation request must be received and entered into the system before the cut-off for the day the request is submitted for processing in order to be effective to cancel the post-employment distribution.

(b) *After processing.* A post-employment distribution election cannot be changed or cancelled after the withdrawal request has been processed. Consequently, funds disbursed cannot be returned to the TSP.

(c) *Change in installment payments.* If a participant is receiving a series of installment payments, with appropriate supporting documentation as required by the TSP record keeper, the participant can change at any time: The payment amount or frequency (including stopping installment payments), the address to which the payments are mailed, the amount of federal tax withholding, whether or not a payment will be rolled over (if permitted) and the portion to be rolled over, the method by which direct payments to the participant are being sent (EFT or check), the identity of the financial institution to which payments are rolled over or sent directly to the participant by EFT, or the identity of the EFT account.

■ 70. Revise subpart C to read as follows:

Subpart C—Procedures for Post-Employment Distributions

Sec.

1650.21 Information provided by employing agency or service.
1650.22 Accounts of $200 or more.
1650.23 Accounts of less than $200.
1650.24 How to obtain a post-employment distribution.
1650.25 Rollovers from the TSP.

Subpart C—Procedures for Post-Employment Distributions

§ 1650.21 Information provided by employing agency or service.

When a TSP participant separates from Government service, his or her employing agency or service must report the separation and the date of separation to the TSP record keeper. Until the TSP record keeper receives this information from the employing agency or service, it will not pay a post-employment distribution.

§ 1650.22 Accounts of $200 or more.

A participant whose account balance is $200 or more must submit a properly completed distribution election to request a post-employment distribution of his or her account balance.

§ 1650.23 Accounts of less than $200.

Upon receiving information from the employing agency that a participant has been separated for more than 60 days and that any outstanding loans have been closed, provided the participant has not made a distribution election before the distribution is processed, if the account balance is $5.00 or more but less than $200, the TSP record keeper will automatically distribute the entire amount of his or her account balance. The TSP record keeper will not pay this amount by EFT. The participant may not elect to leave this amount in the TSP, nor will the TSP record keeper roll over any automatically distributed amount to an eligible employer plan, traditional IRA, or Roth IRA. However, the participant may make an indirect rollover of this payment into an eligible employer plan, traditional IRA, or Roth IRA to the extent the roll over is permitted by the Internal Revenue Code.

§ 1650.24 How to obtain a post-employment distribution.

To request a post-employment distribution, a participant must initiate a request in the form and manner prescribed by the TSP record keeper.

§ 1650.25 Rollovers from the TSP.

(a) The TSP record keeper will, at the participant's election, roll over all or any portion of an eligible rollover distribution (as defined by section 402(c) of the Internal Revenue Code) directly to an eligible employer plan or an IRA.

(b) If a post-employment distribution includes a payment from a participant's traditional balance and a payment from the participant's Roth balance, the TSP record keeper will, at the participant's election, roll over all or a portion of the payment from the traditional balance to a single plan or IRA and all or a portion of the payment from the Roth balance to another plan or IRA. The TSP record keeper will also allow the traditional and Roth portions of a payment to be rolled over to the same plan or IRA but, for each type of balance, the election must be made separately by the participant and each type of balance will be rolled over separately. However, the TSP record keeper will not roll over portions of the participant's traditional balance to two different institutions or portions of the participant's Roth balance to two different institutions.

(c) If a post-employment distribution includes an amount from a participant's Roth balance and the participant elects to roll over that amount to another eligible employer plan or Roth IRA, the TSP record keeper will inform the plan administrator or trustee of the start date of the participant's Roth 5 year non-exclusion period or the participant's Roth initiation date, and the portion of the distribution that represents Roth contributions. If a post-employment distribution includes an amount from a participant's Roth balance and the participant does not elect to roll over the amount, the TSP record keeper will inform the participant of the portion of the distribution that represents Roth contributions.

(d) Tax-exempt contributions can be rolled over only if the IRA or plan accepts such funds.

(e) The TSP record keeper will roll over distributions only to the extent that the rollover is permitted by the Internal Revenue Code.

■ 71. Amend § 1650.31 by revising paragraph (b) to read as follows:

§ 1650.31 Age-based withdrawals.

* * * * *

(b) An age-based withdrawal is an eligible rollover distribution, so a participant may request that the TSP record keeper roll over all or a portion of the withdrawal to a traditional IRA, an eligible employer plan, or a Roth IRA in accordance with § 1650.25.

* * * * *

■ 72. Amend § 1650.32 by revising paragraphs (a), (b)(5), and (e) to read as follows:

§ 1650.32 Financial hardship withdrawals.

(a) A participant who has not separated from Government service and who can certify that he or she has a financial hardship is eligible to withdraw all or a portion of his or her own contributions to the TSP (and their attributable earnings) in a single payment to meet certain specified financial obligations. The amount of a financial hardship withdrawal request must be at least $1,000.

(b) * * *

(5) The participant has incurred expenses and losses (including loss of income) on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100–707, provided that the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

* * * * *

(e) The participant must certify that he or she has a financial hardship as described on the hardship withdrawal request, and that the dollar amount of the withdrawal request does not exceed

the actual amount of the financial hardship.

* * * * *

§ 1650.33 [Removed and Reserved]

■ 73. Remove and reserve § 1650.33.

■ 74. Revise § 1650.34 to read as follows:

§ 1650.34 Uniqueness of loans and in-service withdrawals.

An outstanding TSP loan cannot be converted into an in-service withdrawal or vice versa. Funds distributed as an in-service withdrawal cannot be returned or repaid.

■ 75. Revise subpart E to read as follows:

Subpart E—Procedures for In-Service Withdrawals

Sec.

1650.41 How to obtain an age-based withdrawal.
1650.42 How to obtain a financial hardship withdrawal.
1650.43 [Reserved]

Subpart E—Procedures for In-Service Withdrawals

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based withdrawal, a participant must initiate a request in form and manner prescribed by the TSP record keeper.

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship withdrawal, a participant must initiate a request in the form and manner prescribed by the TSP record keeper.

(b) There is no limit on the number of financial hardship withdrawals a participant can make; however, the TSP record keeper will not accept a financial hardship withdrawal request for a period of six months after a financial hardship disbursement is made.

§ 1650.43 [Reserved]

■ 76. Amend § 1650.61 by revising paragraphs (a), (b), (c) introductory text, and (c)(1), (2), (4), and (5) to read as follows:

§ 1650.6 1 Spousal rights applicable to post-employment distributions.

(a) The spousal rights described in this section apply to total post-employment distributions when the married participant's vested TSP account balance exceeds $3,500, to partial post-employment distributions without regard to the amount of the participant's account balance, and to any change in the amount or frequency of an existing installment payment series, including a change from payments calculated based on life expectancy to payments based on a fixed-dollar amount.

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date the distribution request is processed by the TSP record keeper, the spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment distribution or makes a change to the amount or frequency of an existing installment payment series. The participant must provide the TSP record keeper with the spouse's correct email or physical address to which to send the required notice.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a total post-employment distribution.

(1) The participant may make a different total post-employment distribution election only if his or her spouse consents to that election and waives the right to this annuity.

(2) A participant's spouse must consent to any partial post-employment distribution election (other than an election to purchase this type of an annuity with such amount) and waive his or her right to this annuity with respect the amount distributed.

* * * * *

(4) Unless the participant was granted an exception under this subpart to the spousal consent requirement within 90 days of the date the distribution request is processed by the TSP record keeper, to show that the spouse has consented to a different total or partial post-employment distribution election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed distribution request, signed by his or her spouse.

(5) The spouse's consent and waiver is irrevocable for the applicable distribution or installment payment change once the TSP record keeper has received it.

■ 77. Amend § 1650.62 by revising paragraphs (b) and (c) to read as follows:

§ 1650.62 Spousal rights applicable to in-service withdrawals.

* * * * *

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP record keeper, the spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal. The participant must provide the TSP record keeper with the spouse's correct email or physical address to which to send the required notice.

(c) Unless the participant was granted an exception under this subpart to the spousal consent requirement within 90 days of the date the withdrawal request is processed by the TSP record keeper, before obtaining an in-service withdrawal, a participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount. To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request, signed by his or her spouse. Once a request containing the spouse's consent and waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

■ 78. Amend § 1650.63 by revising paragraphs (a) introductory text, (a)(3)(i), (b), and (c) to read as follows:

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for such an exception must be submitted to the TSP record keeper in the form and manner prescribed by the TSP record keeper, accompanied by the following:

* * * * *

(3) * * *

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith efforts the participant has made to locate the spouse in the 90 days before the request for an exception was received by the TSP record keeper. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address.

Negative statements, such as, ''I have not seen nor heard from him,'' or ''I have not had contact with her,'' are not sufficient.

* * * * *

(b) A TSP withdrawal election will be processed within 90 days of an approved exception so long as the spouse named on the TSP withdrawal request is the spouse for whom the exception has been approved.

(c) The TSP and/or its record keeper may require a participant to provide additional information before granting a waiver. The TSP and/or its record keeper may use any of the information provided to conduct its own search for the spouse.

■ 79. Amend § 1650.64 by revising paragraphs (a) introductory text, (a)(2)(ii)(C), and (b) to read as follows:

§ 1650.64 Executive Director's exception to the spousal consent requirement.

(a) Whenever this subpart requires the consent of a spouse of a FERS or uniformed services participant to a loan or TSP withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

* * * * *

(2) * * *

(ii) * * *

(C) Expressly states that the participant may obtain a loan from his or her TSP account or make a TSP withdrawal notwithstanding the absence of the spouse's signature.

(b) A post-employment distribution election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP record keeper so long as the spouse named on the request is the spouse for whom the exception has been approved.

PART 1651—DEATH BENEFITS

■ 80. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

§ 1651.1 [Amended]

■ 81. Amend § 1651.1 by removing the definition of ''TIN''.

■ 82. Amend § 1651.2 by revising paragraphs (a) introductory text, (a)(1), (b) introductory text, (b)(1) through (4), (c), and (d) to read as follows:

§ 1651.2 Entitlement to funds in a deceased participant's account.

(a) *Death benefits.* Except as provided in paragraph (b) of this section, the account balance of a deceased participant will be paid as a death benefit to the individual or individuals surviving the participant, in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant in accordance with § 1651.3;

* * * * *

(b) *TSP withdrawals.* If the TSP record keeper processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. The TSP record keeper will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdrawal his or her account in the form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described in paragraphs (b)(1) through (5) of this section:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP post-employment distribution request, or as a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP record keeper will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP post-employment distribution request if the joint life annuitant does not survive the participant, or as a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

* * * * *

(c) *TSP loans.* If the TSP record keeper processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP record keeper will declare the loan balance as a loan foreclosure in accordance with part 1655 of this chapter.

(d) *TSP investments.* Upon a participant's death, his or her TSP account will remain invested in the same TSP core funds as the account balance was invested on his or her date of death. If any portion of the participant's TSP account is invested through the mutual fund window at the time of his or her death, his or her mutual fund window account will be closed and the balance will be transferred back to the TSP core funds in the participant's TSP account in accordance with his or her most recent investment election until it is paid out or a beneficiary participant account is established under this part.

■ 83. Revise § 1651.3 to read as follows:

§ 1651.3 Designation of beneficiary.

(a) *Designation requirements.* A participant may designate one or more beneficiaries for his or her TSP account. A valid TSP designation of beneficiary remains in effect until it is properly changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. A participant can name up to 20 total (primary and contingent) beneficiaries to share the death benefit. A beneficiary may be designated without the knowledge or consent of that beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* To be valid and accepted by the TSP record keeper, a TSP designation of beneficiary must:

(1) Be received by the TSP record keeper on or before the date of the participant's death;

(2) Identify the participant in such a manner so that the TSP record keeper can locate his or her TSP account;

(3) Be signed and properly dated by the participant and signed and properly dated by one witness:

(i) The participant must either sign the designation of beneficiary in the presence of the witness or acknowledge his or her signature on the designation of beneficiary to the witness;

(ii) A witness must be age 21 or older; and

(iii) A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of the beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries pro rata;

(4) Designate primary beneficiary shares which when summed equal 100%;

(5) Contain no substantive alterations (*e.g.,* struck-through shares or scratched-out names of beneficiaries);

(6) Designate each primary and each contingent beneficiary in such a manner so that the TSP record keeper can identify the individual or entity;

(7) Not attempt to designate beneficiaries for the participant's traditional balance and the participant's Roth balance separately; and

(8) Be received by the TSP record keeper not more than 365 calendar days after the date of the participant's most recent signature.

(d) *Will.* A participant cannot use a will to designate a TSP beneficiary.

■ 84. Revise § 1651.4 to read as follows:

§ 1651.4 How to change a designation of beneficiary.

(a) *Change.* To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary meeting the requirements of § 1651.3 to the TSP record keeper. If the TSP record keeper receives more than one valid designation of beneficiary, it will honor the designation with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) [Reserved]

(c) *Will.* A participant cannot use a will to change a TSP designation of beneficiary.

§ 1651.5 [Amended]

■ 85. Amend § 1651.5, in paragraph (b), by removing ''TSP'' and adding in its place ''TSP record keeper''.

§ 1651.6 [Amended]

■ 86. Amend § 1651.6, in paragraph (d) introductory text, by removing ''TSP'' and adding in its place ''TSP record keeper''.

§ 1651.8 [Amended]

■ 87. Amend § 1651.8, in paragraph (b), by removing ''Board'' and adding in its place ''TSP record keeper''.

§ 1651.10 [Amended]

■ 88. Amend § 1651.10, in paragraph (c), by removing ''form''.

§ 1651.12 [Amended]

■ 89. Amend § 1651.12 by removing ''Board'' and adding in its place ''TSP record keeper'' wherever it appears.

■ 90. Revise § 1651.13 to read as follows:

§ 1651.13 How to apply for a death benefit.

To apply for a TSP death benefit, a potential beneficiary must contact the ThriftLine for instructions on providing a certified copy of the participant's death certificate, along with any other information as required by the TSP.

■ 90. Revise § 1651.14 to read as follows:

§ 1651.14 How payment is made.

(a) *In general.* Each beneficiary's death benefit will be disbursed pro rata from the participant's traditional and Roth balances. The payment from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all death benefits will be disbursed pro rata from all TSP core funds in which the deceased participant's account is invested. All pro rated amounts will be based on the balances in each TSP core fund or source of contributions on the day the disbursement is made. Disbursement will be made separately for each entitled beneficiary.

(b) *Spouse beneficiaries.* The TSP record keeper will automatically transfer a surviving spouse's death benefit to a beneficiary participant account (described in § 1651.19) established in the spouse's name. The TSP record keeper will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than $200 on the date the account is established. The TSP record keeper also will not transfer this amount or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

(c) *Nonspouse beneficiaries.* The TSP record keeper will send notice of pending payment to each beneficiary. Payment will be sent to the address that is provided on the participant's TSP designation of beneficiary unless the TSP record keeper receives notice of a more recent address. All individual beneficiaries must provide the TSP record keeper with a Social Security number. The following additional rules apply to payments to nonspouse beneficiaries:

(1) *Payment to minor child or incompetent beneficiary.* Payment will be made in the name of a minor child or incompetent beneficiary. A parent or other guardian may direct where the payment should be sent and may make any permitted tax withholding election. A guardian of a minor child or incompetent beneficiary must submit court documentation showing his or her appointment as guardian.

(2) *Payment to executor or administrator.* If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant, not to the executor or administrator. A taxpayer identification number must be provided for all estates.

(3) *Payment to trust.* If payment is to a trust, the payment will be made payable to the trust and mailed in care of the trustee. A taxpayer identification number must be provided for the trust.

(4) *Payment to inherited IRA on behalf of a nonspouse beneficiary.* If payment is to an inherited IRA on behalf of a nonspouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee. A payment to an inherited IRA will be made only in accordance with the rules set forth in 5 CFR 1650.25.

(5) *Undeliverable payments.* If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to contact the beneficiary. If the beneficiary does not respond within 90 days, the death benefit payment will be forfeited to the TSP. The beneficiary can claim the forfeited funds, although they will not be credited with investment returns.

(6) *Proper payments.* A properly paid death benefit payment cannot be returned to the TSP.

■ 91. Amend § 1651.16 by revising paragraph (c) to read as follows:

§ 1651.16 Missing and unknown beneficiaries.

* * * * *

(c) *Abandoned account.* If no beneficiaries of the account are located,

the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the TSP record keeper's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date. However, earnings will not be credited from the date the account is abandoned. The TSP may require the beneficiary to apply for the death benefit in the form and manner prescribed by the TSP record keeper and submit proof of identity and relationship to the participant.

■ 92. Amend § 1651.19 by revising paragraphs (a), (b), (c)(3) and (4), (e), (g), (h), (k), (l), (m) introductory text, (m)(1) and (4), and (n) to read as follows:

§ 1651.19 Beneficiary participant accounts.

* * * * *

(a) *Initial investment allocation.* Each beneficiary participant account, once established, will be allocated to the TSP core funds in which the deceased participant's account balance was invested on his or her date of death. A beneficiary participant may redistribute his or her beneficiary participant account balance among the TSP core funds by making a fund reallocation or fund transfer request described in part 1601, subpart C, of this chapter. A beneficiary participant may move a portion of his or her beneficiary account balance from the TSP core funds to the mutual fund window by making a fund transfer request described in part 1601, subpart F.

(b) *Contributions.* A beneficiary participant may not make contributions or rollovers to his or her beneficiary participant account. The TSP record keeper will not accept an investment election request described in part 1601, subpart B, of this chapter for a beneficiary participant account.

(c) * * *

(3) In the event that a beneficiary participant does not withdraw from his or her beneficiary participant account an amount sufficient to satisfy his or her required minimum distribution for the year, the TSP record keeper will automatically distribute the necessary amount on or before the applicable date described in paragraph (c)(1) of this section.

(4) The TSP record keeper will disburse required minimum distributions described in paragraph (c)(3) of this section pro rata from the beneficiary participant's traditional balance and the beneficiary participant's Roth balance.

* * * * *

(e) *Ineligibility for certain withdrawals.* A beneficiary participant is ineligible to request the following types of withdrawals from his or her beneficiary participant account: Age-based withdrawals described in § 1650.31 of this chapter, financial hardship withdrawals described in § 1650.32 of this chapter, or loans described in part 1655 of this chapter.

* * * * *

(g) *Rollovers.* A beneficiary participant may request that the TSP record keeper roll over all or a portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)) from his or her beneficiary participant account to a traditional IRA, Roth IRA or eligible employer plan (including a civilian or uniformed services TSP account other than a beneficiary participant account) in the form and manner prescribed by the TSP record keeper.

(h) *Periodic statements.* The TSP or its record keeper will furnish beneficiary participants with periodic statements in a manner consistent with part 1640 of this chapter.

* * * * *

(k) *Court orders.* Court orders relating to a civilian beneficiary participant account or uniformed services beneficiary participant account shall be processed pursuant to the procedures set forth in part 1653 of this chapter as if all references to a TSP participant are references to a beneficiary participant and all references to a TSP account or account balance are references to a beneficiary participant account or beneficiary participant account balance. Notwithstanding any provision of part 1653, a payee of a court-ordered distribution from a beneficiary participant account cannot request a rollover of the court-ordered distribution to an *eligible employer plan or IRA.*

(l) *Death of beneficiary participant.* To the extent it is not inconsistent with this § 1651.19, a beneficiary participant account shall be disbursed upon the death of the beneficiary participant in accordance with part 1651 as if any reference to a participant is a reference to a beneficiary participant. For example, a beneficiary participant may designate a beneficiary for his or her beneficiary participant account in accordance with §§ 1651.3 and 1651.4. No individual who is entitled to a death benefit from a beneficiary participant account shall be eligible to keep the death benefit in the TSP or request that the TSP record keeper roll over all or a portion of the death benefit to an IRA or eligible employer plan.

(m) *Uniformed services beneficiary participant accounts.* Uniformed services beneficiary participant accounts are subject to the following additional rules and procedures:

(1) Uniformed services beneficiary participant accounts are established and maintained separately from civilian beneficiary participant accounts. Beneficiary participants who have a uniformed services beneficiary participant account and a civilian beneficiary participant account will be issued two separate TSP account numbers. A beneficiary participant must submit separate fund allocation, fund transfer, re and/or TSP withdrawal requests for each account and submit separate beneficiary designations for each account;

* * * * *

(4) A beneficiary participant may roll over all or any portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)) from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, tax-exempt money attributable to combat zone contributions cannot be rolled over from a uniformed services beneficiary participant account to a civilian TSP participant account.

(n) *Multiple beneficiary accounts.* Each beneficiary participant account is maintained separately from all other beneficiary participant accounts. If an individual has multiple beneficiary participant accounts, each of the individual's beneficiary participant accounts will have a unique account number. A beneficiary participant must submit separate fund reallocation, fund transfer, and/or TSP withdrawal requests and submit separate beneficiary designations for each beneficiary participant account that the TSP maintains for him or her. A beneficiary participant account cannot be combined with another beneficiary participant account.

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

■ 93. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

§ 1653.1 [Amended]

■ 94. Amend § 1653.1, in the definition of ''TSP investment earnings or

earnings'', by removing ''TSP fund'' and adding in its place ''TSP core fund''.

■ 95. Amend § 1653.2 by revising paragraphs (a)(3)(ii) and (iv) and (b)(1), (2), (4), (5), and (7) to read as follows:

§ 1653.2 Qualifying retirement benefits court orders.

(a) * * *

(3) * * *

(ii) A stated percentage of the account; or

* * * * *

(iv) The following examples would qualify to require payment from the TSP, although ambiguous or conflicting language used elsewhere could cause the order to be rejected.

(A) *Example 1. Ordered:* [payee's name, Social Security number (SSN), and address] is awarded $____ from the [civilian or uniformed services] Thrift Savings Plan account of [participant's name, account number or SSN, and address].

(B) *Example 2. Ordered*: [payee's name, SSN, and address] is awarded ____% of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, account number or SSN, and address] as of [date].

Note 1 to paragraph (a)(3)(iv). The following optional language can be used in conjunction with any of the above examples. *Further ordered:* Earnings will be paid on the amount of the entitlement under this *order* until payment is made.

* * * * *

(b) * * *

(2) An order relating to a TSP account that contains only nonvested money;

* * * * *

(4) An order requiring the TSP to make a payment in the future, unless the present value of the payee's entitlement can be calculated, in which case the TSP will make the payment currently;

(5) An order that does not specify the account to which the order applies, if the participant has both a civilian TSP account and a uniformed services TSP account;

* * * * *

(7) An order that designates the TSP core fund, source of contributions, or balance (*e.g.,* traditional, Roth, or tax-exempt) from which the payment or portions of the payment shall be made.

■ 96. Revise § 1653.3 to read as follows:

§ 1653.3 Processing retirement benefits court orders.

(a) The payment of a retirement benefits court order from the TSP is governed solely by FERSA and by the terms of this subpart. The TSP record keeper will honor retirement benefits court orders properly issued and certified by a court (as defined in § 1653.1). However, those courts have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying domestic relations proceedings.

(b) The TSP record keeper will review a retirement benefits court order to determine whether it is enforceable against the TSP only after the TSP record keeper has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP record keeper. Retirement benefits court orders should be submitted to the TSP record keeper at the current address as provided at *https://www.tsp.gov.* Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a court order must be written in English or be accompanied by a certified English translation and contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's account number or Social Security number (SSN);

(2) The name and last known mailing address of each payee covered by the order; and

(3) The payee's SSN and state of legal residence if he or she is the current or former spouse of the participant.

(c) As soon as practicable after the TSP record keeper receives a document that purports to be a qualifying retirement benefits court order, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawals or loan disbursements (other than a required minimum distribution pursuant to section 401(a)(9) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)) will be allowed until the account is unfrozen. All other account activity will be permitted.

(d) The following documents do not purport to be qualifying retirement benefits court orders, and accounts of participants to whom such orders relate will not be frozen:

(1) A court order relating to a TSP account that has been closed;

(2) A court order dated before June 6, 1986;

(3) A court order that does not award all or any part of the TSP account to someone other than the participant; and

(4) A court order that does not mention retirement benefits.

(e) After the participant's account is frozen, the TSP record keeper will review the document further to determine if it is complete; if the document is not complete, it will be rejected, the account will be unfrozen and no further action will be taken with respect to the document.

(f) The TSP record keeper will review a complete copy of an order to determine whether it is a qualifying retirement benefits court order as described in § 1653.2. The TSP record keeper will mail a decision letter to all parties containing the following information:

(1) A determination regarding whether the court order is qualifying;

(2) A statement of the applicable statutes and regulations;

(3) An explanation of the effect the court order has on the participant's TSP account; and

(4) If the qualifying order requires payment, the letter will provide:

(i) An explanation of how the payment will be calculated and an estimated amount of payment;

(ii) The anticipated date of payment;

(iii) Tax and withholding information to the person responsible for paying Federal income tax on the payment;

(iv) Information on how to roll over the payment to an eligible employer plan within the meaning of section 402(c) of the Internal Revenue Code (26 U.S.C. 402(c)), traditional IRA, or Roth IRA (if the payee is the current or former spouse of the participant); and

(v) Information on how to receive the payment through an electronic funds transfer (EFT).

(g)[Reserved]

(h) An account frozen under this section will be unfrozen as follows:

(1) If the account was frozen in response to an order issued to preserve the status quo pending final resolution of the parties' rights to the participant's TSP account, the account will be unfrozen if the TSP record keeper receives a court order that vacates or supersedes the previous order (unless the order vacating or superseding the order itself qualifies to place a freeze on the account). A court order that purports to require a payment from the TSP supersedes an order issued to preserve the status quo, even if it does not qualify to require a payment from the TSP;

(2) If the account was frozen in response to an order purporting to require a payment from the TSP, the freeze will be lifted:

(i) Once payment is made, if the court order is qualifying; or

(ii) Eighteen (18) months after the date of the decision letter if the court order is not qualifying. The 18-month period will be terminated, and the account will be unfrozen, if both parties submit to the TSP record keeper a written request for such a termination.

(i) The TSP record keeper will hold in abeyance the processing of a court-ordered payment if the TSP record keeper is notified in writing that the underlying court order has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the order.

(1) In the notification, the TSP record keeper must be provided with proper documentation of the appeal and citations to legal authority, which address the effect of the appeal on the enforceability of the underlying court order.

(i) If the TSP record keeper receives proper documentation and citations to legal authority which demonstrate that the underlying court order is not enforceable, the TSP record keeper will inform the parties that the payment will not occur until resolution of the appeal, and the account will remain frozen for loans and withdrawals.

(ii) In the absence of proper documentation and citations to legal authority, the TSP record keeper will presume that the provisions relating to the TSP in the court order remain valid and will proceed with the payment process.

(2) The TSP record keeper must be notified in writing of the disposition of the appeal before the freeze will be removed from the participant's account or a payment will be made. The notification must include a complete copy of an order from the appellate court explaining the effect of the appeal on the participant's account.

(j) Multiple qualifying court orders relating to the same TSP account and received by the TSP record keeper will be processed as follows:

(1) If the orders make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP record keeper will only honor the order bearing the latest effective date.

(2) If the orders relate to different former spouses of the participant and award survivor annuities, the TSP record keeper will honor them in the order of their effective dates.

(3) If the orders relate to different payees and award fixed dollar amounts, percentages of an account, or portions of an account calculated by the application of formulae, the orders will be honored:

(i) In the order of their receipt by the TSP record keeper, if received by the TSP record keeper on different days; or

(ii) In the order of their effective dates, if received by the TSP record keeper on the same day.

(4) In all other cases, the TSP record keeper will honor multiple qualifying court orders relating to the same TSP account in the order of their receipt by the TSP record keeper.

■ 97. Amend § 1653.4 by revising paragraphs (b), (c), (f) introductory text, (f)(1), (f)(3) introductory text, (f)(3)(i) and (iii), (g) introductory text, and (g)(2) to read as follows:

§ 1653.4 Calculating entitlements.

* * * * *

(b) If the court order awards a percentage of an account as of a specific date, the payee's entitlement will be calculated based on the account balance as of that date. If the date specified in the order is not a business day, the TSP record keeper will use the participant's account balance as of the last preceding business day.

(c) If the court order awards a percentage of an account but does not contain a specific date as of which to apply that percentage, the TSP record keeper will use the liquidation date.

* * * * *

(f) The payee's entitlement will be credited with TSP investment earnings as described:

(1) The entitlement calculated under this section will not be credited with TSP investment earnings unless the court order specifically provides otherwise. The court order may not specify a rate for earnings.

* * * * *

(3) If earnings are awarded, the TSP record keeper will calculate the amount to be awarded by:

(i) Determining the payee's award amount (*e.g.,* the percentage of the participant's account);

* * * * *

(iii) Multiplying the price per share as of the payment date by the number and composition of shares calculated in paragraph (f)(3)(ii) of this section.

(g) The TSP record keeper will estimate the amount of a payee's entitlement when it prepares the decision letter and will recalculate the entitlement at the time of payment. The recalculation may differ from the initial estimation because:

* * * * *

(2) After the estimate of the payee's entitlement is prepared, the TSP record keeper may process account transactions that have an effective date on or before the date used to compute the payee's entitlement. Those transactions will be included when the payee's entitlement is recalculated at the time of payment; and

* * * * *

■ 98. Amend § 1653.5 by revising paragraphs (a)(1) and (2), (d), (e), (g), (h), (k), (m), and (n) to read as follows:

§ 1653.5 Payment.

(a) * * *

(1) As soon as administratively practicable after the date of the decision letter when the payee is the current or former spouse of the participant, but in no event earlier than 30 days after the date of the decision letter.

(2) As soon as administratively practicable after the date of the decision letter when the payee is someone other than the current or former spouse of the participant.

* * * * *

(d) Payment will be made pro rata from the participant's traditional and Roth balances. The distribution from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all payments will be distributed pro rata from all TSP core funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the day the disbursement is made. The TSP record keeper will not honor provisions of a court order that require payment to be made from a specific TSP core fund, source of contributions, or balance.

(e) Payment will be made only to the person or persons specified in the court order. However, if the court order specifies a third-party mailing address for the payment, the TSP record keeper will mail to the address specified any portion of the payment that is not rolled over to a traditional IRA, Roth IRA, or eligible employer plan within the meaning of section 402(c) of the Internal Revenue Code (26 U.S.C. 402(c)).

* * * * *

(g) If there are insufficient funds to pay each court order payee, payment will be made as follows:

(1) If the order specifies an order of precedence for the payments, the TSP record keeper will honor it.

(2) If the order does not specify an order of precedence for the payments, the TSP record keeper will pay a current or former spouse first and a dependent second.

(h) If the payee dies before a payment is disbursed, payment will be made to the estate of the payee, unless otherwise specified by the court order. A distribution to the estate of a deceased court order payee will be reported as income to the decedent's estate. If the participant dies before payment is made, the order will be honored so long as it is submitted to the TSP record

keeper before the TSP account has been closed.

* * * * *

(k) If a court ordered payment is returned as undeliverable, the TSP record keeper will attempt to locate the payee by writing to the address provided on the court order. If the payee does not respond within 90 days, the funds will be forfeited to the TSP. The payee can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

* * * * *

(m) A payee who is a current or former spouse of the participant may elect to roll over a court-ordered payment to a traditional IRA, eligible employer plan within the meaning of section 402(c) of the Internal Revenue Code (26 U.S.C. 402(c)), or Roth IRA. Any election permitted by this paragraph (m) must be made pursuant to the rules described in 5 CFR 1650.25.

(n) If a court order payee who is the current or former spouse of the participant has their own TSP account (other than a beneficiary participant account), the payee can request that the TSP record keeper roll over the court-ordered payment to the payee's TSP account in accordance with the rules described in 5 CFR 1650.25. However, any pro rata share attributable to tax-exempt contributions cannot be rolled over; instead it will be paid directly to the payee.

■ 99. Add § 1653.6 to subpart A to read as follows:

§ 1653.6 Fees.

The TSP record keeper will charge a participant a $600.00 court order processing fee as follows:

(a) Upon receipt of a complete court order document (whether draft or final) and prior to reviewing the order to determine whether it is a qualifying retirement benefits court order, the fee will be deducted from his or her TSP account balance on a pro rata basis from the participant's traditional and Roth balances. The portion of the fee deducted from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The portion of the fee deducted from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, the entire fee will be distributed pro rata from all TSP core funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the day the fee is deducted;

(b) The fee will be charged only once per court order. However, it will not be refunded in the event that the court order is never determined to be a qualifying retirement benefits court order; and

(c)(1) If the court order:

(i) Is determined to be a qualifying retirement benefits court order; and

(ii) Explicitly requires the fee to be split between the participant and the payee;

(2) The TSP record keeper will deduct the payee's portion of the fee from his or her payment and credit that amount back to the participant's TSP account balance.

■ 100. Amend § 1653.12 as follows:

■ a. In paragraph (a), remove ''TSP'' and add in its place ''TSP record keeper'';

■ b. Revise paragraph (c)(2); and

■ c. In paragraph (c)(6), remove ''TSP Fund'' and add in its place ''TSP core fund''.

The revision reads as follows:

§ 1653.12 Qualifying legal processes.

* * * * *

(c) * * *

(2) A legal process relating to a TSP account that contains only nonvested money;

* * * * *

■ 101. Revise § 1653.13 to read as follows:

§ 1653.13 Processing legal processes.

(a) The payment of legal processes from the TSP is governed solely by the Federal Employees' Retirement System Act, 5 U.S.C. chapter 84, and by the terms of this subpart. Although the TSP record keeper will honor legal processes properly issued by a competent authority, those entities have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying proceedings.

(b) The TSP record keeper will review a legal process to determine whether it is enforceable against the TSP only after the TSP record keeper has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Legal processes should be submitted to the TSP record keeper at the current address as provided at *https://www.tsp.gov.* Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a legal process must contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's account number or Social Security number (SSN);

(2) The name and last known mailing address of each payee covered under the order; and

(3) The SSN and state of legal residence of the payee if he or she if the current or former spouse of the participant.

(c) As soon as practicable after the TSP record keeper receives a document that purports to be a qualifying legal process, whether or not complete, the participant's account will be frozen. After the account is frozen, no TSP withdrawal or loan disbursements will be allowed until the account is unfrozen. All other account activity will be permitted, including contributions, loan repayments, adjustments, investment elections, fund reallocations, and fund transfers.

(d) The following documents will not be treated as purporting to be a qualifying legal processes, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or accompany a document that establishes) that it has been issued by a competent authority;

(2) A legal process relating to a TSP account that has been closed; and

(3) A legal process that does not relate either to the TSP or to the participant's retirement benefits.

(e) After the participant's account is frozen, the TSP record keeper will review the document further to determine if it is complete; if the document is not complete, it will be rejected, the account will be unfrozen and no further action will be taken with respect to the document.

(f) As soon as practicable after receipt of a complete copy of a legal process, the TSP record keeper will review it to determine whether it is a qualifying legal process as described in § 1653.12. The TSP record keeper will mail a decision letter to all parties containing the same information described at § 1653.3(f).

(g) [Reserved]

(h) An account frozen under this section will be unfrozen as follows:

(1) If the account was frozen pursuant to a legal process requiring the TSP to freeze the participant's account in anticipation of an order to pay from the account, the account will be unfrozen if any one of the following events occurs:

(i) As soon as practicable after the TSP record keeper receives a complete copy of an order vacating or superseding the preliminary order (unless the order vacating or superseding the preliminary order qualifies to place a freeze on the account);

(ii) Upon payment pursuant to the order to pay from the account, if the TSP record keeper determines that the order is qualifying; or

(iii) As soon as practicable after the TSP issues a decision letter informing

the parties that the order to pay from the account is not a qualifying legal process;

(2) If the account was frozen after the TSP record keeper received a document that purports to be a legal process requiring payment from the participant's account, the account will be unfrozen:

(i) Upon payment pursuant to a qualifying legal process; or

(ii) As soon as practicable after the TSP record keeper informs the parties that the document is not a qualifying legal process.

(i) The TSP record keeper will hold in abeyance the processing of a payment required by legal process if the TSP record keeper is notified in writing that the legal process has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the legal process. The notification must be accompanied by the documentation and citations to legal authority described at § 1653.3(i).

(j) Multiple qualifying legal processes relating to the same TSP account and received by the TSP record keeper will be processed as follows:

(1) If the legal processes make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP record keeper will only honor the legal process bearing the latest effective date.

(2) If the legal processes relate to different payees, the legal process will be honored:

(i) In the order of their receipt by the TSP record keeper, if received by the TSP record keeper on different days; or

(ii) In the order of their effective dates, if received by the TSP record keeper on the same day.

■ 102. Add § 1655.16 to subpart B to read as follows:

§ 1653.16 Fees.

The TSP record keeper will charge a participant a $600.00 legal process processing fee as follows:

(a) Upon receipt of a complete legal process document (whether draft or final) and prior to reviewing order to determine whether it is a qualifying legal process, the fee will be deducted from his or her TSP account balance on a pro rata basis from the participant's traditional and Roth balances. The portion of the fee deducted from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The portion of the fee deducted from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, the entire fee will be distributed pro rata from all TSP core funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the day the fee is deducted; and

(b) The fee will be charged only once per legal process. However, it will not be refunded in the event that the court order is never determined to be a qualifying legal process.

§ 1653.22 [Amended]

■ 103. Amend § 1653.22 by removing ''TSP'' and adding in its place ''TSP record keeper''.

§ 1653.23 [Amended]

■ 104. Amend § 1653.23 by removing ''TSP'' and adding in its place ''TSP record keeper''.

§ 1653.32 [Amended]

■ 105. Amend § 1653.32 as follows:

■ a. In paragraph (a), remove ''TSP'' and add in its place ''TSP record keeper'';

■ b. In paragraph (c)(2), remove ''the TSP'' and add in its place ''the TSP record keeper''; and

■ c. In paragraph (c)(6), remove ''TSP Fund'' and add in its place ''TSP core fund''.

§ 1653.33 [Amended]

■ 106. Amend § 1653.33 as follows:

■ a. In paragraph (a), remove ''TSP'' and add in its place ''TSP record keeper'';

■ b. In paragraph (c)(2), remove ''the TSP'' and add in its place ''the TSP record keeper''; and

■ c. In paragraph (c)(6), remove ''TSP Fund'' and add in its place ''TSP core fund''.

■ 107. Revise § 1634.34 to read as follows:

§ 1653.34 Processing Federal tax levies and criminal restitution orders.

(a) The payment of tax levies and criminal restitution orders from the TSP is governed solely by the Federal Employees' Retirement Systems Act, 5 U.S.C. chapter 84, and by the terms of this subpart. Although the TSP record keeper will honor tax levies or criminal restitution orders properly issued, those entities have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying proceedings.

(b) The TSP record keeper will review a tax levy or criminal restitution order to determine whether it is enforceable against the TSP record keeper only after it has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP record keeper. Tax levies and criminal restitution orders should be submitted to the TSP record keeper at the current address as provided at *https://www.tsp.gov.* Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a tax levy or criminal restitution order must meet all the requirements of § 1653.32 or § 1653.33; it must also provide (or be accompanied by a document or enforcement letter that provides):

(1) The participant's TSP account number or Social Security number (SSN); and

(2) The name and mailing address of the payee.

(c) As soon as practicable after the TSP record keeper receives a document that purports to be a qualifying tax levy or criminal restitution order, the participant's account will be frozen. After the participant's account is frozen, no TSP withdrawal or loan disbursements will be allowed until the account is unfrozen. All other account activity will be permitted, including contributions, loan repayments, adjustments, investment elections, fund reallocations, and fund transfers. Once a disbursement from the account is made in accordance with the restitution order or levy, the hold will be removed from the participant's account.

(d) As soon as practicable after receipt of a complete copy of a tax levy or criminal restitution order, the TSP record keeper will review it to determine whether it is qualifying as described in § 1653.32 or § 1653.33. The TSP record keeper will mail a decision letter to all parties containing the following information:

(1) A determination regarding whether the restitution order or levy is qualifying;

(2) A statement of the applicable statutes and regulations;

(3) An explanation of the effect the restitution order or levy has on the participant's TSP account; and

(4) If the qualifying restitution order or levy requires payment, the letter will provide:

(i) An explanation of how the payment will be calculated and an estimated amount of payment;

(ii) The anticipated date of payment.

§ 1653.36 [Amended]

■ 108. Amend § 1653.36 as follows

■ a. In paragraph (a), remove ''TSP'';

■ b. In paragraph (e), remove ''TSP Funds'' and add in its place TSP core funds''; and

■ c. In paragraph (h), remove ''TSP'' and add in its place ''TSP record keeper''.

PART 1655—LOAN PROGRAM

■ 109. The authority citation for part 1655 continues to read as follows:

Authority: 5 U.S.C. 8432d, 8433(g), 8439(a)(3) and 8474.

■ 110. Amend § 1655.1, in paragraph (b), as follows:
■ a. Add in alphabetical order a definition for ''Cure period'';
■ b. Remove the definition of ''Date of application'';
■ c. Add in alphabetical order definitions for ''Deemed distribution'', ''Loan direct debit repayment'', and ''Loan offset''; and
■ d. Remove the definition of ''Taxable distribution''.

The additions read as follows:

§ 1655.1 Definitions.

* * * * *

(b) * * *

Cure period means the period set forth at § 1655.14(e).

Date of request means the day on which the TSP record keeper receives the loan request in the form and manner prescribed by the TSP record keeper.

Deemed distribution means a deemed distribution under Internal Revenue Code section 72(p) and the regulations promulgated thereunder. Also referred to as a loan taxation or taxed loan, it means the amount of outstanding principal and interest on a loan that must be reported to the Internal Revenue Service as taxable income as a result of the failure of a participant who has not separated from Government service to:

(i) Make timely loan repayments before the end of the cure period; or

(ii) Repay the loan in full by the maximum term limit.

* * * * *

Loan direct debit repayment means a loan repayment made directly from a participant's personal savings or checking account.

* * * * *

Loan offset means a loan offset under Internal Revenue Code section 72(p) and the regulations promulgated thereunder. Also referred to as a loan foreclosure, it means the amount of outstanding principal and interest on a loan that must be reported to the Internal Revenue Service as taxable income as the result of the failure of a participant who has separated from Government service to repay his or her loan in full or begin making repayments by the deadline imposed by the TSP record keeper.

* * * * *

■ 111. Revise § 1655.2 to read as follows:

§ 1655.2 Eligibility for loans.

A participant can apply for a TSP general purpose or residential loan if:

(a) More than 30 business days have elapsed since the participant has repaid in full any TSP loan;

(b) The participant is in pay status;

(c) The participant is eligible to contribute to the TSP; and

(d) The participant has at least $1,000 in employee contributions and attributable earnings in his or her account. Paragraph (b) of this section shall not apply to loan requests made during a Government shutdown by participants who are furloughed or excepted from furlough due to the Government shutdown.

§ 1655.3 [Amended]

■ 112. Amend § 1655.3 by removing ''record keeper''.

■ 113. Revise § 1655.4 to read as follows:

§ 1655.4 Number of loans.

A participant may have no more than two loans outstanding from his or her TSP account at any time. No more than one outstanding loan from an account may be a residential loan. A participant with both a civilian TSP account and a uniformed services TSP account may have two outstanding loans from each account.

■ 114. Revise § 1655.5 to read as follows:

§ 1655.5 Loan repayment period.

(a) *Minimum.* The minimum repayment period a participant may request for a general purpose loan is 12 months of scheduled payments. The minimum repayment period a participant may request for a residential loan is 61 months of scheduled payments.

(b) *Maximum.* The maximum repayment period a participant may request for a general purpose loan is 60 months of scheduled payments. The maximum repayment period a participant may request for a residential loan is 180 months years of scheduled payments.

■ 115. Amend § 1655.6 by revising paragraph (b)(2) and adding paragraph (d) to read as follows:

§ 1655.6 Amount of loan.

* * * * *

(b) * * *

(2) 50 percent of the participant's vested account balance that is attributable to employee contributions and attributable earnings (including any outstanding loan balance) or $10,000, whichever is greater, minus any outstanding loan balance; or

* * * * *

(d) Any amount invested through the mutual fund window at the time the participant makes a loan request will not be considered for purposes of determining either the minimum or maximum loan amounts.

■ 116. Amend § 1655.7 by revising paragraph (a) to read as follows:

§ 1655.7 Interest rate.

(a) Except as provided in paragraph (b) of this section, loans will bear interest at the monthly G Fund interest rate established by the Department of the Treasury in effect on the 15th of the month prior to the date the loan request is made.

* * * * *

§ 1655.8 [Removed and Reserved]

■ 117. Remove and reserve § 1655.8.

■ 118. Amend § 1655.9 as follows:
■ a. In paragraph (b), remove ''TSP Fund'' and add in its place ''TSP core fund'';
■ b. In paragraph (c), remove ''TSP Funds'' and ''TSP Fund'' and add in their place ''TSP core funds'';
■ c. In paragraph (d), remove ''contribution allocation'' and add in its place ''investment election'' and remove ''TSP Fund'' and add in its place ''TSP core fund''; and
■ d. Add paragraph (e).

The addition reads as follows:

§ 1655.9 Effect of loans on individual account.

* * * * *

(e) Loan disbursements will not be made from any amounts invested through the mutual fund window and loan payments will not be credited to a participant's mutual fund window account.

■ 119. Revise § 1665.10 to read as follows:

§ 1655.10 Loan request process.

(a) Any participant may apply for a loan by submitting a completed TSP loan request in the form and manner prescribed by the TSP record keeper.

(b) If a participant has a uniformed services account and a civilian account, a separate loan request must be made for each account.

■ 120. Revise § 1655.11 to read as follows:

§ 1655.11 Loan acceptance.

If the requirements set forth in §§ 1655.2, 1655.4, and 1655.6(a) are satisfied, the TSP record keeper will nevertheless reject a loan request if:

(a) The participant has failed to provide all required information on the loan request;

(b) The participant has a pending loan request or in-service withdrawal request; or

(c) A hold has been placed on the account pursuant to 5 CFR 1653.3(c).

■ 122. Revise § 1655.12 to read as follows:

§ 1655.12 Loan agreement.

(a) Upon determining that a loan request meets the requirements of this part, the TSP record keeper will provide the participant with the terms and conditions of the loan.

(b) By accepting the loan agreement, the participant agrees to be bound by all of its terms and conditions, agrees to repay the loan by payroll deduction, and certifies, under penalty of perjury, to the truth and completeness of all statements made in the loan request and loan agreement to the best of his or her knowledge.

(c) For loan requests not completed on the TSP website, the TSP record keeper must receive the completed loan agreement (including any required supporting documentation) before the expiration date stated on the loan agreement or the agreement will not be processed.

(d) The signed loan agreement must be accompanied by:

(1) In the case of a residential loan, supporting materials that document the purchase or construction of the residence and the amount requested (as described in § 1655.20); and

(2) Any other information that the Executive Director may require.

(e) A participant may request, in the form and manner prescribed by the TSP record keeper, that the loan be disbursed by direct deposit to a checking or savings account maintained by the participant in a financial institution.

§ 1655.13 [Amended]

■ 123. Amend § 1655.13 as follows:

■ a. In paragraph (b)(2), remove ''TSP'' and add in its place ''TSP record keeper'';

■ b. Remove paragraph (b)(5); and

■ c. In paragraph (e), remove ''60'' and add in its place ''90'' and remove ''TSP'' and add in its place ''TSP record keeper''.

■ 124. Revise § 1655.14 to read as follows:

§ 1655.14 Loan payments.

(a) In the case of a participant who has not separated from Government service, loan payments must be made through payroll deduction in accordance with the loan agreement. Once loan payments begin, the employing agency cannot terminate the payroll deductions at the employee's request, unless the TSP or its record keeper instructs it to do so.

(b) The participant may make additional payments by mailing a check or guaranteed funds to the TSP record keeper or by enrolling in loan direct debit repayments from his or her personal savings or checking account. If the TSP record keeper receives a payment that repays the outstanding loan amount and overpays the loan by $10.00 or more, the overpayment will be refunded to the participant. Overpayments of less than $10.00 will be applied to the participant's account and will not be refunded. If a loan overpayment refund is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 90 days, the overpayment refund will be forfeited to the TSP. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(c) The initial payment on a loan is due on or before the 60th day following the loan issue date. Interest accrues on the loan from the date of issuance.

(d) Subsequent payments are due at regular intervals as prescribed in the loan agreement, or most recent amortization, according to the participant's pay cycle.

(e) In the case of a participant who has not separated from Government service, if a payment is not made when due, the TSP record keeper will notify the participant of the missed payment and the participant must make up the payment in full. The participant's make-up payment must be in the form of a check, guaranteed funds, or a one-time payment via loan direct debit from his or her personal savings or checking account. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP record keeper will declare the loan to be a deemed distribution in accordance with § 1655.15(a). The declaration of a deemed distribution does not relieve the participant of his or her obligation to repay the amount.

(f) Interest will accrue on all missed payments and will be included in the calculation of any deemed distribution subsequently declared in accordance with § 1655.15(a). Interest will also accrue on payments missed while a participant is in nonpay status and on any deemed distribution until it is repaid in full.

(g) A participant who has separated from Government service with an outstanding loan balance may continue making loan repayments via check, guaranteed funds, or loan direct debit repayments. If a separated participant does not begin making post-separation loan repayments or pay off the loan in full by the deadline imposed by the TSP record keeper, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b). In the case of a separated participant who commences post-separation loan repayments, if a payment is not made when due, the TSP record keeper will notify the separated participant of the missed payment and he or she must make up the payment in full. The make-up payment must be in the form of a check, guaranteed funds, or a one-time payment via loan direct debit from his or her personal savings or checking account. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b).

■ 125. Revise § 1655.15 to read as follows:

§ 1655.15 Deemed Distributions and Loan Offsets.

(a) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to deemed distributions are satisfied.

(1) The TSP record keeper will declare the entire unpaid balance of an outstanding loan (including interest) to be a deemed distribution if:

(i) The participant misses two or more loan payments or the participant's payments are made for less than the required amount, and the delinquency is not cured within the cure period;

(ii) The loan is not repaid in full by the maximum term limit; or

(iii) A participant is in a confirmed nonpay status for a period of one year or more, has not advised the TSP record keeper that he or she is serving on active military duty, and payments are not resumed after the participant is notified the loan has been reamortized.

(2) Loan taxation does not relieve a participant of his or her obligation to repay the taxed loan amount. A participant may repay a taxed loan in full (including accrued interest) via check or money order up until the time he or she separates from Government service. The tax basis in a participant's TSP account will be adjusted to reflect the repayment of a taxed loan.

(3) If a participant does not repay a taxed loan:

(i) His or her account balance will be permanently reduced; and

(ii) The taxed loan will count as one of the two loans the participant is permitted per account and is treated as an outstanding loan balance when

calculating the participant's maximum loan amount.

(b) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to loan offsets are satisfied.

(1) The TSP record keeper will declare a loan offset in the following situations:

(i) A participant separates from Government service and does not begin making loan repayments or repay the outstanding loan principal and interest in full within the period specified by the notice to the participant from the TSP record keeper explaining the participant's repayment options; or

(ii) The participant dies.

(2) [Reserved]

(c) If a deemed distribution or loan offset occurs in accordance with paragraph (a) or (b) of this section, as applicable, the TSP record keeper will notify the participant of the amount and date of the distribution. The TSP record keeper will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

(d) If a participant dies and a loan offset occurs in accordance with paragraph (b) of this section, the TSP record keeper will notify the participant's estate of the amount and date of the distribution. Neither the estate nor any other person, including a beneficiary, may repay the loan of a deceased participant, nor can the funds be returned to the TSP.

(e) If, because of Board or TSP record keeper error, a TSP loan is declared a deemed distribution or loan offset under circumstances that make such a declaration inconsistent with this part, or inconsistent with other procedures established by the Board or TSP record keeper in connection with the TSP loan program, the distribution will be reversed. The participant will be provided an opportunity to reinstate loan payments or repay in full the outstanding balance on the loan.

■ 126. Revise § 1655.16 to read as follows:

§ 1655.16 Reamortization.

(a) When a participant's pay cycle changes for any reason, he or she must notify the TSP record keeper of the change in the form and manner prescribed by the TSP record keeper. Upon notification, the participant's loan will be reamortized to adjust the scheduled payment to an equivalent amount in the new pay cycle. If the new pay cycle results in fewer payments per year and the participant does not reamortize the loan, the loan may be declared a taxable distribution pursuant to § 1655.15(a)(3).

(b) Upon reamortization, the outstanding principal balance remains the same. Any accrued interest is paid off first before payments are applied to principal and current interest.

(c) The interest rate on a reamortized loan will be the same as the interest rate on the original loan.

■ 127. Revise § 1655.17 to read as follows:

§ 1655.17 Prepayment.

(a) A participant may repay a loan in full, without a penalty, at any time before the declaration of a deemed distribution or loan foreclosure under § 1655.15. Repayment in full means receipt by the TSP record keeper of a payment, by check or guaranteed funds made payable to the Thrift Savings Plan or via loan direct debit repayments, of all principal and interest due on the loan.

(b) If a participant returns a loan check to the TSP record keeper, it will be treated as a repayment; however, additional interest may be owed, which, if not paid, could result in a deemed distribution. The loan, even though repaid, will also be taken into account in determining the maximum amount available for future loans, in accordance with § 1655.6(b).

(c) The amount outstanding on a loan can be obtained from the TSP website, the ThriftLine, or by a written request to the TSP record keeper.

■ 128. Amend § 1655.18 by revising paragraph (d) to read as follows:

§ 1655.18 Spousal rights.

* * * * *

(d) *Certification of truthfulness.* By completing a loan request, the participant certifies, under penalty of perjury, that all information provided to the TSP record keeper during the loan process is true and complete, including statements concerning the participant's marital status, the spouse's email or physical address at the time the application is filed, or the current spouse's consent to the loan.

■ 129. Revise § 1655.20 to read as follows:

§ 1655.20 Residential loans.

(a) A residential loan will be made only for the purchase or construction of the primary residence of the participant, or for the participant and his or her spouse, and for the amount required to close on the purchase. The participant must actually bear all or part of the cost of the purchase. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a previously purchased primary residence.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, or a mobile home; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised and the documentation states that the funds are being used to purchase the primary residence. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) The amount required to close on the purchase of a primary residence does not include points or loan origination fees charged for a loan. In addition, real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a signed sale/purchase contract/settlement offer or agreement or addendum; or

(2) For construction, a signed builder's agreement/contract; and

(3) For requests including closing costs and/or settlement charges, a loan estimate/worksheet/statement/closing disclosure from a mortgage company.

(f) The documentation provided under this section must meet the requirements set forth by the TSP record keeper.

■ 130. Revise § 1655.21 to read as follows:

§ 1655.21 Loan fee.

The TSP will charge a participant a $50.00 loan fee when it disburses a general purpose loan and a $100.00 loan fee when it disburses a residential loan and will deduct the applicable fee from the proceeds of the loan.

PART 1690—THRIFT SAVINGS PLAN

■ 131. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

■ 132. Amend § 1690.1 as follows:
■ a. Remove the definitions of ''Account or individual account'' and ''Account balance'';
■ b. Remove the definition of ''Agency Automatic (1%) Contributions'' and add in its place a definition for ''Agency automatic (1%) contributions'';
■ c. Remove the definition of ''Contribution allocation'';
■ d. Revise the definitions of ''Employer contributions'' and ''In-service withdrawal request'';
■ e. Add in alphabetical order definitions for ''Investment election'', ''L Fund'', and ''Post-employment distribution request'';
■ f. Revise the definitions of ''Post-employment withdrawal request'' and ''Roth balance'', paragraph (1)(iii) of the definition of ''Roth initiation'', the definitions of ''Separation from Government service'' and ''Source of contributions'', paragraph (1) of the definition of ''Tax-deferred balance'', and the definition of ''Traditional balance'';
■ g. Remove the definition of ''Trustee-to-trustee transfer or transfer'';
■ h. Add in alphabetical order a definition for ''TSP core fund'';
■ i. Remove the definition of ''TSP Fund'';
■ j. Revise the definition of ''TSP record keeper''; and
■ k. Remove the definition of ''TSP website'' and add a definition for ''TSP website'' in its place.

The revisions and additions read as follows:

§ 1690.1 Definitions.

* * * * *

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3). It also includes service automatic (1%) contributions made under 5 U.S.C. 8440e(e)(3)(A).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2). It also includes service matching contributions under 5 U.S.C. 8440e(e)(3)(B).

* * * * *

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1), 8432(c)(3), or 5 U.S.C. 8440e(e)(3)(A) and agency matching contributions under 5 U.S.C. 8432(c)(2) or 5 U.S.C. 8440e(e)(3)(B).

* * * * *

In-service withdrawal request means a properly completed withdrawal election for either an age-based in-service withdrawal under 5 CFR 1650.41 or a financial hardship in-service withdrawal under 5 CFR 1650.42.

Investment election means the participant's apportionment of his or her future contributions, loan payments, and rollovers from eligible employer plans or traditional IRAs among the TSP core funds.

L Fund means the Lifecycle Funds described in 5 CFR part 1601, subpart E.

* * * * *

Post-employment distribution request means a properly completed distribution withdrawal election under 5 CFR 1650.24.

* * * * *

Roth balance means the sum of:

(1) Roth contributions and associated earnings; and

(2) Amounts rolled over to the TSP from a Roth account maintained by an eligible employer plans and earnings on those amounts.

* * * * *

Roth initiation date * * *

(1) * * *

(iii) The date used, by a plan from which the participant directly rolled over Roth money into the TSP, to measure the participant's Roth 5 year non-exclusion period.

* * * * *

Separation from Government service means generally the cessation of employment with the Federal Government. For civilian employees it means termination of employment with the U.S. Postal Service or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP for 60 or more full calendar days. For uniformed services members, it means the discharge from active duty or the Ready Reserve or the transfer to inactive status or to a retired list pursuant to any provision of title 10 of the United States Code. The discharge or transfer may not be followed, before the end of the 60-day period beginning on the day following the effective date of the discharge, by resumption of active duty, an appointment to a civilian position covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or an equivalent retirement system, or continued service in or affiliation with the Ready Reserve. Reserve component members serving on full-time active duty who terminate their active duty status and subsequently participate in the drilling reserve are said to continue in the Ready Reserve. Active component members who are released from active duty and subsequently participate in the drilling reserve are said to affiliate with the Ready Reserve.

* * * * *

Source of contributions means traditional contributions, Roth contributions, agency automatic (1%) contributions, or agency matching contributions. All amounts in a participant's account are attributed to one of these four sources. Catch-up contributions, rollovers, and loan payments are included in the traditional contribution source or the Roth contribution source.

* * * * *

Tax-deferred balance * * *

(1) All contributions and rollovers in a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant and earnings on those amounts; and

* * * * *

Traditional balance means the sum of:

(1) Tax-deferred contributions and associated earnings;

(2) Tax-deferred amounts rolled over into the TSP and associated earnings;

(3) Tax-exempt contributions and associated earnings;

(4) Agency matching contributions and associated earnings;

(5) Agency automatic (1%) contributions and associated earnings.

* * * * *

TSP core fund means an investment fund established pursuant to 5 U.S.C. 8438(b)(1)(A)–(E) and (c)(2).

TSP record keeper means the entities the Board engages to perform record keeping and administration services for the Thrift Savings Plan.

TSP website means the internet location(s) maintained by the TSP and/or its record keeper, which contain(s) information about the TSP and by which TSP participants may, among other things, access their accounts by computer.

* * * * *

■ 133. Revise § 1690.12 to read as follows:

§ 1690.12 Power of attorney.

(a) A participant or beneficiary can appoint an agent to conduct business with the TSP on his or her behalf by using a power of attorney (POA). The agent is called an attorney-in-fact. The TSP record keeper must approve a POA before the agent can conduct business with the TSP; however, the TSP record keeper will accept a document that was signed by the agent before the TSP record keeper approved the POA. The TSP record keeper will approve a POA if it meets the following conditions:

(1) The POA must give the agent either general or specific powers, as explained in paragraphs (b) and (c) of this section;

(2) The POA must be signed by the participant;

(3) The POA must provide the names and addresses of the participant and the agent;

(4) The POA must meet the state law requirements of the participant's state of domicile as determined by the address on file with the TSP record keeper;

(5) The POA must be a complete document; and

(6) The POA must be submitted to the TSP recordkeeper for approval.

(b) A general POA gives an agent unlimited authority to conduct business with the TSP, including the authority to sign any TSP-related document. Additional information regarding general powers of attorney can be accessed at *https://www.tsp.gov.*

(c) A specific power of attorney gives an agent the authority to conduct specific TSP transactions. A specific POA must expressly describe the authority it grants. Additional information regarding specifical powers of attorney, as well as a sample form, can be accessed at *https://www.tsp.gov.*

■ 134. Revise § 1690.13 to read as follows:

§ 1690.13 Guardianship and conservatorship orders.

(a) A court order can authorize an agent to conduct business with the TSP on behalf of an incapacitated participant or beneficiary. The agent is called a guardian or conservator and the incapacitated person is called a ward. The TSP record keeper must approve a court order before an agent can conduct business with the TSP; however, the TSP record keeper will accept a document that was signed by the agent before the TSP record keeper approved the court order. The TSP record keeper will approve a court order appointing an agent if the following conditions are met:

(1) A court of competent jurisdiction (as defined at § 1690.1) must have issued the court order;

(2) The court order must give the agent either general or specific powers, as explained in paragraphs (b) and (c) of this section; and

(3) The agent must demonstrate that he or she meets any precondition specified in the court order, such as a bonding requirement.

(b) A general grant of authority gives a guardian or conservator unlimited authority to conduct business with the TSP, including the authority to sign any TSP-related document. By way of example, an order gives a general grant authority by appointing a ''guardian of the ward's estate,'' by permitting a guardian to ''conduct business transactions'' for the ward, or by authorizing a guardian to care for the ward's ''personal property'' or ''Federal Government retirement benefits.''

(c) A specific grant of authority gives a guardian or conservator authority to conduct specific TSP transactions. Such an order must expressly describe the authority it grants. By way of example, an order may authorize an agent to ''obtain information about the ward's TSP account'' or ''borrow or withdraw funds from the ward's TSP account.''

■ 135. Amend § 1690.14 by revising paragraph (b) to read as follows:

§ 1690.14 Checks made payable to the Thrift Savings Plan.

* * * * *

(b) *TSP payment address.* The TSP record keeper has established an address for the receipt of specified TSP payments. The TSP record keeper will not answer correspondence mailed to that payment address.

■ 136. Revise § 1690.15 to read as follows:

§ 1690.15 Freezing an account—administrative holds.

(a) The TSP record keeper may freeze (*e.g.,* place an administrative hold on) a participant's account for any of the following reasons:

(1) Pursuant to a qualifying retirement benefits court order as set forth in part 1653 of this chapter;

(2) Pursuant to a request from the Department of Justice under the Mandatory Victims Restitution Act;

(3) Upon the death of a participant;

(4) Upon suspicion or knowledge of fraudulent account activity or identity theft;

(5) In response to litigation pertaining to an account;

(6) For operational reasons (*e.g.,* to correct a processing error or to stop payment on a check when account funds are insufficient);

(7) Pursuant to a written request from a participant made in the manner prescribed by the TSP record keeper; and

(8) For any other reason necessary to ensure the integrity of TSP accounts or compliance with law.

(b) [Reserved]

[FR Doc. 2022–03478 Filed 2–28–22; 8:45 am]

BILLING CODE 6760–01–P

FEDERAL REGISTER

Vol. 87 Tuesday,

No. 40 March 1, 2022

Part III

Department of Energy

Federal Energy Regulatory Commission

Certification of New Interstate Natural Gas Facilities; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL18–1–000]

Certification of New Interstate Natural Gas Facilities

AGENCY: Federal Energy Regulatory Commission, Department of Energy (DOE).

ACTION: Updated Policy Statement on Certification of New Interstate Natural Gas Facilities.

SUMMARY: This Updated Policy Statement describes how the Commission will evaluate all factors bearing on the public interest in determining whether a new interstate natural gas transportation project is required by the public convenience and necessity under the Natural Gas Act.

DATES: Comments that pertain to the Paperwork Reduction Act are due May 2, 2022.

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SUPPLEMENTARY INFORMATION:

1. On April 19, 2018, and February 18, 2021, the Commission issued Notices of Inquiry (NOI) [1] to help the Commission explore whether, and if so how, it should revise the approach established by its currently effective policy statement on the certification of new interstate natural gas transportation facilities (1999 Policy Statement) [2] to determine whether a proposed natural gas project ''is or will be required by the present or future public convenience and necessity,'' as that standard is established in section 7 of the Natural Gas Act (NGA).[3]

2. Based on the comments received in this proceeding and the significant changes that have occurred since issuance of the 1999 Policy Statement, and in order to provide stakeholders with more clarity on the Commission's decision-making process, we are issuing this Updated Certificate Policy Statement (Updated Policy Statement).

3. This Updated Policy Statement does not establish binding rules and is intended to explain how the Commission will consider applications to construct new interstate natural gas transportation facilities.

I. Background

A. Statutory Authority and Obligations

4. Section 7 of the NGA authorizes the Commission to issue certificates of public convenience and necessity for the construction and operation of facilities transporting natural gas in interstate commerce.[4] Under section 7(e), the Commission shall issue a certificate to any qualified applicant upon finding that the construction and operation of a proposed project ''is or will be required by the present or future public convenience and necessity.'' [5] The public convenience and necessity standard encompasses all factors bearing on the public interest.[6]

5. The NGA authorizes the Commission to attach to a certificate ''such reasonable terms and conditions as the public convenience and necessity may require.'' [7] The Commission can also deny an application for a certificate if a balancing of all public interest factors weighs against authorization of the proposed project.[8] If an applicant receives a certificate from the Commission, section 7(h) of the NGA authorizes the certificate holder to acquire the property rights necessary to construct and operate its project by use of eminent domain if it cannot reach an agreement with a landowner.[9]

6. The Commission's consideration of an application generally triggers environmental review under the National Environmental Policy Act of 1969 (NEPA).[10] NEPA and its implementing regulations require that, before taking or authorizing a major Federal action that may significantly affect the quality of the human environment, Federal agencies take a ''hard look'' at the environmental consequences of the proposed action and disclose their analyses to the public.[11] NEPA also requires that agencies consider whether there are steps that could be taken to mitigate any adverse environmental consequences.[12] While NEPA is a procedural statute and does not require an agency to reject a proposed project based on its adverse effects or to take action to mitigate those effects,[13] an agency may require mitigation measures as a condition of its approval under the NGA,[14] or withhold approval based on significant adverse effects.[15]

B. Historical Context and the 1999 Certificate Policy Statement

7. From the enactment of the NGA in 1938 to the 1990s, as a result of statutory and regulatory revisions, the natural gas industry evolved away from a system of limited competition among vertically integrated companies selling bundled commodity and transportation services at Commission-regulated prices to one where pipelines provide open-access transportation of gas supplies purchased pursuant to non-Commission regulated agreements between producers and other parties. Consequently, consumers benefitted from competition among non-pipeline entities in an unregulated commodity market and from competition among pipeline companies providing open-access, unbundled transportation services at Commission-regulated rates or, if authorized under certain circumstances, market-based rates.

[1] *Certification of New Interstate Natural Gas Facilities,* 83 FR 18020 (Apr. 25, 2018), 163 FERC ¶ 61,042 (2018); *Certification of New Interstate Natural Gas Facilities,* 86 FR 11268 (Feb. 24, 2021), 174 FERC ¶ 61,125 (2021).

[2] *Certification of New Interstate Natural Gas Pipeline Facilities,* 88 FERC ¶ 61,227 (1999), *clarified,* 90 FERC ¶ 61,128, *further clarified,* 92 FERC ¶ 61,094 (2000) (1999 Policy Statement).

[3] 15 U.S.C. 717f(e).

[4] *Id.* 717f.

[5] *Id.* 717f(e).

[6] *Atl. Ref. Co.* v. *Pub. Serv. Comm'n of N.Y.,* 360 U.S. 378, 391 (1959) (''This is not to say that rates are the only factor bearing on the public convenience and necessity, for [section] 7(e) requires the Commission to evaluate all factors bearing on the public interest.'').

[7] 15 U.S.C. 717f(e).

[8] *See, e.g., FPC* v. *Transcon. Gas Pipe Line Corp.,* 365 U.S. 1, 17 (1961) (the Commission ''can only exercise a veto power over proposed transportation . . . when a balance of all the circumstances weighs against certification'').

[9] 15 U.S.C. 717f(h).

[10] 42 U.S.C. 4321–4370j.

[11] *Id.* 4332(2)(C); 40 CFR 1500.1–1508.1; *Baltimore Gas & Elec. Co.* v. *Nat. Res. Def. Council, Inc.,* 462 U.S. 87, 97 (1983) (discussing the twin aims of NEPA—to consider environmental impacts and to disclose the agency's consideration to the public).

[12] *Robertson* v. *Methow Valley Citizens Council,* 490 U.S. 332, 351 (1989) (''To be sure, one important ingredient of an [environmental impact statement] is the discussion of steps that can be taken to mitigate adverse environmental consequences.'').

[13] *Id.* at 352 (''There is a fundamental distinction, however, between a requirement that mitigation be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated, on the one hand, and a substantive requirement that a complete mitigation plan be actually formulated and adopted, on the other.''); *see also Baltimore Gas & Elec. Co.,* 462 U.S. at 97 (citing *Stryckers' Bay Neighborhood Council* v. *Karlen,* 444 U.S. 223, 227 (1980)).

[14] *Final Guidance for Federal Departments and Agencies on the Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate use of Mitigated Findings of No Significant Impact,* 76 FR 3843, 3848 (Jan. 21, 2011).

[15] *See, e.g., Sierra Club* v. *FERC,* 867 F.3d 1357, 1373 (D.C. Cir. 2017) (*Sabal Trail*) (explaining that the Commission may ''deny a pipeline certificate on the ground that the pipeline would be too harmful to the environment'').

8. At the same time that natural gas commodity and transportation markets were becoming more competitive, the 1990s saw significant growth in natural gas consumption in the industrial and electric generation sectors. The resultant expansion of the pipeline system to meet this demand raised issues as to who should bear the costs of new construction. Before the Commission adopted the 1999 Policy Statement, the Commission's pricing policy for new construction generally allowed for the costs of expansion projects to be rolled into a pipeline company's existing system costs to derive rolled-in rates in a future rate case under section 4 of the NGA.[16] All shippers bore some burden of the expansion project's cost, regardless of whether they would benefit from the project. Local distribution companies (LDC) and other parties believed that this pricing policy sent the wrong price signals by masking the real costs of an expansion project and could result in overbuilding and subsidization of expansion by a pipeline's existing shippers.

9. In response to these and other concerns, in 1998, the Commission issued a Notice of Proposed Rulemaking [17] and an NOI [18] to explore issues related to its policies on the certification and pricing of new pipeline projects. Based on the information received from stakeholders in response to these notices, the Commission issued the 1999 Policy Statement ''to foster competitive markets, protect captive customers, and avoid unnecessary environmental and community impacts while serving increasing demands for natural gas.'' [19] These objectives were realized primarily by a shift from a presumption of rolled-in pricing to a presumption of incremental pricing.[20] Under incremental pricing, existing customers using only existing facilities do not subsidize the cost of constructing and operating new projects.[21]

10. Pursuant to the 1999 Policy Statement, when reviewing applications to construct new interstate transportation facilities the Commission would first determine whether a threshold requirement of no financial subsidization from existing customers was met. If so, the Commission would next consider whether the applicant eliminated or minimized any residual adverse effects the project might have on: (1) The applicant's existing customers; (2) existing pipelines in the market and their captive customers; and (3) landowners and communities affected by the proposed project.[22] Any residual adverse effects would be balanced against the anticipated benefits from the project.[23] The Commission allowed an applicant to rely on a variety of factors to demonstrate that its proposed project was needed,[24] but, in practice, applicants generally elected to submit, and the Commission accepted, precedent agreements with prospective customers for long-term firm service as the principal factor in demonstrating project need.

11. The 1999 Policy Statement introduced a sliding scale approach to balance public benefits with adverse effects, where the ''more interests adversely affected or the more adverse impact a project would have on a particular interest, the greater the showing of public benefits from the project required to balance the adverse impact.'' [25] The 1999 Policy Statement provided that, if the Commission found that project benefits outweighed adverse impacts on economic interests, then the Commission would proceed to consider the environmental impacts of the project.[26]

C. Developments After Issuance of the 1999 Certificate Policy Statement

12. Much has changed since the Commission issued the 1999 Policy Statement. In the last decade, increases in both domestic and international demand for natural gas produced in the United States, combined with the available supply of competitively-priced gas from shale reserves, have reduced prices and price volatility and have resulted in more proposals for natural gas transportation and export projects.[27] Much of the increased production is attributable to the development of the Marcellus and Utica shale formations in Pennsylvania, West Virginia, Ohio, and New York; shale formations in the Permian Basin in West Texas and Eastern New Mexico; Eagle Ford Shale in South Texas; and Bakken Shale Formation in North Dakota, among others; as well as associated new extraction technologies.

13. Contracting patterns are changing significantly as a result of this supply growth. In the past, LDCs contracted for a large percentage of interstate pipeline capacity, obtaining supplies from the production area for their customers. Increasingly, however, LDCs are purchasing gas supplies further downstream at market area pooling points or at their city gates as other parties increasingly contract for pipeline capacity. Natural gas producers are now contracting for a significant amount of firm pipeline capacity on expansion projects in an effort to provide a secured commercial outlet for their gas.

14. Over the past decade, there has been greater interest and participation by affected landowners and communities, Tribes, environmental organizations, and others in natural gas project proceedings. Part of this may be attributable to the increase in proposals for new natural gas infrastructure in more densely populated areas of the eastern half of the nation. These stakeholders have raised various concerns with, among other things, the use of eminent domain, the need for new projects, and the environmental impacts of project construction and operation, including impacts on climate change and environmental justice communities.

15. The Commission's consideration of climate change and greenhouse gas emissions (GHG) has also evolved since issuance of the 1999 Policy Statement. In the last decade, the Commission began including estimates of GHG emissions from project construction (*e.g.,* tailpipe emissions from construction equipment) and operation (*e.g.,* fuel combustion at compressor stations and gas venting and leaks) in its

[16] *Pricing Policy for New and Existing Facilities Constructed by Interstate Natural Gas Pipelines,* 71 FERC ¶ 61,241 (1995), *order on reh'g,* 75 FERC ¶ 61,105 (1996). Under this pricing policy, expansion projects received a determination for rolled-in pricing upon a showing that the new costs would not increase existing rates by more than five percent.

[17] *Regulation of Short-Term Natural Gas Transportation Services,* Notice of Proposed Rulemaking, 63 FR 42,982 (July 29, 1998), FERC Stats. & Regs. ¶ 32,533 (1998) (cross-referenced at 84 FERC ¶ 61,085).

[18] *Regulation of Interstate Natural Gas Transportation Services,* NOI, 63 FR 42974 (Aug. 9, 1998), FERC Stats. & Regs. ¶ 35,533 (1998) (cross-referenced at 84 FERC ¶ 61,087).

[19] 1999 Policy Statement, 88 FERC at 61,743.

[20] Although incremental pricing was presumed, an applicant could demonstrate that a proposed project qualified for a pre-determination of rolled-in rate treatment through showing that inexpensive expansibility was made possible because of earlier, costly construction or that the project was designed to improve existing service for existing customers. *Id.* at 61,746 and n.12.

[21] *Id.* at 61,746.

[22] *Id.* at 61,745.

[23] *Id.* at 61,748.

[24] *Id.* at 61,747.

[25] *Id.* at 61,749.

[26] *Id.* at 61,745–46. While the Commission only moved to the stage of balancing environmental impacts and other considerations if a proposed project passed this economic test established by the 1999 Policy Statement, Commission staff would begin review of the environmental impacts following the filing of an application. If a project did not pass this economic test, it could be rejected without further consideration of environmental factors.

[27] In the early 2000s, there were a number of proposals for natural gas import projects. However, as natural gas supplies increased and prices decreased, the Commission began to see more proposals for natural gas export projects.

NEPA documents.[28] Then, starting in late 2016, the Commission began to estimate GHG emissions from downstream combustion and upstream production.[29] In 2018, however, the Commission reversed this practice,[30] resulting in a number of judicial decisions finding fault with the Commission's approach.[31] Concurrent with this Updated Policy Statement, the Commission is issuing a new policy statement to explain how it will assess project impacts on climate change in its NEPA and NGA reviews going forward (GHG Policy Statement).[32]

16. Another development since issuance of the 1999 Policy Statement is an increasing recognition of the need for Federal agencies to focus on environmental justice and equity. In 1994, under Executive Order 12898, agencies were directed to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority and low-income populations (*i.e.,* environmental justice communities).[33] In 2021, President Biden issued two executive orders to renew and expand upon this directive. Specifically, Executive Order 13985, issued on January 20, 2021, requires agencies to conduct Equity Assessments to identify and remove barriers to underserved communities and ''to increase coordination, communication, and engagement with community-based organizations and civil rights organizations.'' [34] And Executive Order 14008, issued on January 27, 2021, directs agencies to develop ''programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.'' [35]

II. Notices of Inquiry and Comments

17. As noted above, on April 19, 2018, the Commission issued an NOI (2018 NOI) seeking information and stakeholder perspectives to help the Commission explore whether, and if so how, it should revise the approach established by the 1999 Policy Statement. The Commission identified four general areas for examination in the 2018 NOI: (1) The reliance on precedent agreements to demonstrate need for a proposed project; (2) the potential exercise of eminent domain and landowner interests; (3) the Commission's evaluation of alternatives and environmental effects under NEPA and the NGA; and (4) the efficiency and effectiveness of the Commission's certificate processes. In response to the 2018 NOI, the Commission received more than 3,000 comments from a diverse range of stakeholders.

18. On February 18, 2021, the Commission issued another NOI (2021 NOI) seeking to build upon the existing record established by the 2018 NOI. The 2021 NOI noted that a number of changes had occurred since the Commission issued the 2018 NOI, including regulatory changes, the issuance of new executive orders, and increased stakeholder interest in certain topics. Accordingly, the 2021 NOI provided stakeholders with an opportunity to refresh the record and provide updated information and additional viewpoints to help the Commission assess its policy.

19. The 2021 NOI included the four general areas of examination identified in the 2018 NOI, with modifications to the specific questions asked, including new questions on how the Commission should assess and consider the impacts of proposed projects on climate change. The 2021 NOI also identified a fifth area of examination—the Commission's identification and consideration of disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on environmental justice communities and the mitigation of those adverse impacts and burdens, as well as the Commission's identification of potentially affected environmental justice communities and measures for ensuring effective participation by these communities in the certificate review process. In response to the 2021 NOI, the Commission received more than 35,000 comments, including more than 150 unique comment letters, from a diverse range of stakeholders.

20. The comments received in response to the 2018 and 2021 NOIs are summarized at a high level below. Comments related to GHG emissions are summarized in the aforementioned GHG Policy Statement.[36] The considerable number of comments submitted in this proceeding indicates substantial public interest in the Commission's policy for reviewing proposed interstate natural gas facilities.

A. The Commission's Determination of Need

21. A wide range of commenters request that the Commission change how it makes its public need determination. Many of these commenters argue that the Commission should rely less on precedent agreements.[37] Additionally, commenters request that, in assessing need, there be greater consideration of climate change impacts,[38] increased transparency,[39] and an enlarged participatory role for stakeholders.[40] Some commenters recommend that applicants be required to provide specific evidence that need exists, the proposed facilities serve that need, and the asserted need cannot be met by existing infrastructure.[41] In contrast, regulated companies and industry trade organizations are nearly unanimous in their general support of the 1999 Policy Statement as it relates to the public need determination.[42]

22. Several commenters argue that the public benefits recognized in the 1999 Policy Statement are skewed, overly

[28] *See, e.g.,* Environmental Assessment for the Philadelphia Lateral Expansion Project, Docket No. CP11–508–000, at 24 (Jan. 18, 2012) (construction emissions); Environmental Assessment for the Minisink Compressor Project, Docket No. CP11–515–000, at 29 (Feb. 29, 2012) (operation emissions).

[29] *See, e.g., Columbia Gas Transmission, LLC,* 158 FERC ¶ 61,046, at PP 116–120 (2017); *Tex. E. Transmission, LP,* 157 FERC ¶ 61,223, at P 41 (2016), *reh'g granted,* 161 FERC ¶ 61,226 (2017).

[30] *Dominion Transmission, Inc.,* 163 FERC ¶ 61,128 (2018), *pet. dismissed, Otsego 2000* v. *FERC,* 767 F.App'x 19 (D.C. Cir. 2019) (unpublished opinion).

[31] *See infra* P 70.

[32] *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews,* 178 FERC ¶ 61,108 (2022) (GHG Policy Statement).

[33] E.O. 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,* 59 FR 7629, at 7629, 7632 (Feb. 11, 1994).

[34] E.O. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,* 86 FR 7009, 7010–11.

[35] E.O. 14008, *Tackling the Climate Crisis at Home and Abroad,* 86 FR 7619, 7629; *see also* The White House, *Fact Sheet: President Biden Takes Executive Actions to Tackle the Climate Crisis at Home and Abroad, Create Jobs, and Restore Scientific Integrity Across Federal Government* (2021).

[36] GHG Policy Statement, 178 FERC ¶ 61,108.

[37] *E.g.,* Public Interest Organizations (PIO) 2021 Comments at 12; Delaware Riverkeeper Network 2018 Comments at 67; Friends of the Central Shenandoah 2018 Comments at 36–38. The PIO 2021 Comments represent 54 entities from around the country that advocate for the protection of environmental resources, including Natural Resources Defense Council, Sierra Club, Public Citizen, Conservation Law Foundation, and Southern Environmental Law Center.

[38] *See, e.g.,* Environmental Protection Agency (EPA) 2021 Comments at 1–2.

[39] *E.g.,* New Jersey Conservation Foundation, Sabin Center for Climate Change Law, Watershed Institute, Clean Air Council, PennFuture, and New Jersey League of Conservation Voters (collectively, New Jersey Conservation Foundation et al.) 2021 Comments at 31–32.

[40] *E.g.,* Ann W. Woll 2021 Comments at 1; Jessica Greenwood 2021 Comments at 1; Rev. Betsy Sowers 2021 Comments at 1.

[41] *E.g.,* Environmental Defense Fund (EDF) 2021 Comments at 8–12.

[42] *See, e.g.,* American Gas Association (AGA) 2021 Comments at 10–11.

narrow, and outdated.[43] Additionally, some commenters recommend that the Commission create clear guidelines for benefits like reliability and resilience.[44] Some commenters suggest that the Commission consider additional factors in its benefits analysis, such as infrastructure security and how an applicant's proposal fits with, or advances, new Federal and State policies and goals.[45] In contrast, industry trade organizations generally support the Commission's existing benefits analysis under the 1999 Policy Statement, arguing that the Commission's responsibilities under the NGA have not changed, and, thus, any changes to the Commission's review of public benefits should not impede those responsibilities.[46] However, some regulated companies recommend that the Commission more heavily weigh certain benefits, such as reliability and resilience, in light of recent extreme cold weather events and ransomware attacks.[47]

23. Regarding what evidence the Commission should examine to determine project need, many non-governmental organizations (NGO), individual commenters, and other entities argue that the Commission should analyze factors beyond precedent agreements, such as future markets, opportunity costs, Federal and State public policies, and effects on competition.[48] NGOs request that the Commission take a more ''holistic'' approach and assess proposed projects in conjunction with other projects that are designed to serve the same market, serve similar markets, or pass through the same region,[49] and that there be increased coordination with State agencies, including allowing State regulators to review and approve precedent agreements prior to the Commission making a need determination.[50] In contrast, regulated companies and industry trade organizations State that precedent agreements remain powerful indicators of need, as they represent long-term, binding contractual and financial commitments to a project and are more objective evidence than market studies.[51]

24. Several commenters recommend that when applicants provide precedent agreements with affiliates as evidence of need, the Commission look beyond those agreements, given that companies with common profit interests might have incentives to inflate costs which can then be passed on to captive ratepayers.[52] Additionally, several commenters argue that the terms of precedent agreements should be subject to close scrutiny [53] and that the Commission should consider the potential for an asset to be rendered obsolete before the end of its useful life, as well as the length of time over which an asset's costs are recovered.[54] In contrast, regulated companies and industry trade organizations argue that the Commission should not distinguish between affiliate and non-affiliate agreements, as standards of conduct and nondiscrimination require pipeline companies to treat all customers equitably, regardless of whether the customer is an affiliate or a non-affiliate.[55] These entities allege that economic risk, financial obligation, and oversight by State and local regulators associated with precedent agreements demonstrate that they are clear evidence of need, regardless of whether the shipper is an affiliate.[56]

25. A wide range of commenters assert that the Commission must consider the end use of the natural gas to be transported in its assessment of need, even if end use could change over time.[57] Some commenters also note that climate change issues cannot be appropriately addressed without a firm understanding of end use.[58] However, regulated companies and industry trade organizations argue against consideration of expected end use given the practical challenges of dynamic gas markets,[59] the Commission's regulations prohibiting pipelines from unduly discriminating among shippers based on end use,[60] and the fact that regulating end use is outside the scope of the Commission's statutory authority.[61]

26. Many commenters recommend that the Commission assess need in a regional planning context, including consideration of existing infrastructure, in order to avoid unnecessary environmental harm, ''underutilized or stranded'' assets, and needlessly higher rates for captive consumers.[62] Regulated companies and industry trade organizations, however, generally oppose the Commission using a regional approach to review natural gas pipeline projects, asserting that this could needlessly delay construction,[63] the proximity of pipeline projects does not necessarily indicate that projects serve the same need in a region,[64] and the open season process already serves to ensure duplicative projects are not constructed.[65] Also, these entities do not support the Commission further examining whether existing infrastructure could sufficiently meet demand.[66]

27. Additionally, several commenters assert that the Commission must consider future demand as facilities age, as well as national and State decarbonization policies and targets.[67] In contrast, regulated companies and industry trade organizations contend that assessment of future demand is not

[43] *See, e.g.,* Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 4.

[44] *E.g.,* EDF 2021 Comments at 18.

[45] *See, e.g.,* New Jersey Division of Rate Counsel 2021 Comments at 4–8.

[46] *See, e.g.,* Natural Gas Supply Association (NGSA) 2021 Comments at 23.

[47] Iroquois Gas Transmission System, L.P. (Iroquois) 2021 Comments at 10–11.

[48] *See, e.g.,* Niskanen Center, Hopewell Township, Horizons Village Property Owners Association, Inc., and 28 affected landowners (collectively, Niskanen Center et al.) 2021 Comments at 18; Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 9; New Jersey Division of Rate Counsel 2021 Comments at 8–9; Carolyn Elefant 2021 Comments at 2–3.

[49] PIO 2018 Comments at 10. The PIO 2018 Comments represent 64 entities from around the country that advocate for the protection of environmental resources; many of these entities also signed on to the PIO 2021 Comments.

[50] Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 18.

[51] *See, e.g.,* WBI Energy Transmission, Inc. (WBI Energy) 2021 Comments at 3; National Fuel Gas Supply Corporation (National Fuel) 2021 Comments at 9; Energy Transfer LP 2021 Comments at 4–5; Interstate Natural Gas Association of America (INGAA) 2021 Comments at 17–19; Boardwalk Pipeline Partners LP (Boardwalk) 2021 Comments at 28.

[52] *See, e.g.,* Natural Resources Defense Council, Sierra Club, Earthjustice, GreenFaith, Southern Environmental Law Center, Conservation Law Foundation, Public Citizen, Catskill Mountainkeeper, New Jersey Conservation Foundation, Riverkeeper, Inc., and Acadia Center (collectively, Joint NGOs) April 2018 Comments at 2; Jim Steitz 2018 Comments at 2.

[53] *See, e.g.,* Friends of the Central Shenandoah 2018 Comments at 47–49; Upstate Forever 2018 Comments at 2.

[54] New Jersey Division of Rate Counsel 2021 Comments at 10.

[55] *See, e.g.,* WBI Energy 2021 Comments at 5; INGAA 2021 Comments at 19–20; DTE Energy Company 2018 Comments at 5; Iroquois 2018 Comments at 12–13.

[56] *E.g.,* WBI Energy 2021 Comments at 5.

[57] *See, e.g.,* Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 29–32; Deb Evans and Rob Schaaf 2018 Comments at 3–5.

[58] *E.g.,* Fore River Residents Against the Compressor Station, Inc. (FRRACS) 2021 Comments at 2.

[59] Enbridge Gas Pipelines (Enbridge) 2021 Comments at 46; WBI Energy 2021 Comments at 6.

[60] INGAA 2021 Comments at 22 (citing 18 CFR 284.7(b)).

[61] Cheniere Energy, Inc. (Cheniere) 2018 Comments at 6.

[62] *See, e.g.,* EPA 2021 Comments at 1–3; New Jersey Division of Rate Council 2018 Comments at 13–15; Friends of Central Shenandoah 2018 Comments at 57–59.

[63] *E.g.,* INGAA 2021 Comments at 23.

[64] *E.g.,* INGAA 2021 Comments at 24.

[65] *E.g.,* Cheniere 2018 Comments at 8.

[66] *See, e.g.,* Energy Transfer LP 2021 Comments at 6; Iroquois 2021 Comments at 12.

[67] *See, e.g.,* New Jersey Division of Rate Counsel 2021 Comments at 13–14.

necessary or prudent, given that sophisticated market participants already make these calculations, and do not support the Commission performing a comparative or future-looking analysis of energy sources.[68] These entities emphasize that demand for natural gas projects will be correlated with demand for, and deployment of, variable energy resources.[69]

28. Generally, commenters are split on whether, and if so how, the Commission should consider the economic, energy security, and social attributes of domestic production and use of natural gas in reviewing proposed projects. Some regulated companies State that consideration of these factors should be limited;[70] however, others argue that the Commission should consider attributes such as job creation and tax revenues.[71] Several individuals and NGOs State that the Commission could consider these attributes for particular projects, but that the Commission should then also consider the costs of natural gas projects associated with increased noise, lowered property values, lowered air quality, a lowered tax base, and the loss of landowners' potential use of their land.[72] Commenters also recommend that any need analysis be focused on the specific benefits of a proposed project rather than hypothetical or general benefits [73] and that the Commission assess the magnitude or extent of both the benefits and burdens of a proposed project, including whether the jobs created are temporary or permanent, as well as the proportion of the jobs that will be filled by low- to middle-income local workers.[74]

B. The Exercise of Eminent Domain and Landowner Interests

29. Many commenters suggest that the Commission adjust its approach to considering the possible use of eminent domain. For example, some commenters assert that eminent domain should only be an option for projects that can guarantee domestic use or local benefit, or that the Commission should deny certificates that would rely on eminent domain for more than twenty percent of the proposed route.[75] In contrast, regulated companies and industry trade organizations State that the Commission should maintain its current approach, as it adequately protects landowners from the unnecessary use of eminent domain by ensuring that only projects that are needed and that do not require subsidization from existing customers are approved.[76] These entities also note that it is not possible for the Commission to reliably estimate the amount of eminent domain that will ultimately be used prior to issuance of a certificate.[77]

30. Some commenters assert that additional measures should be taken to minimize the use of eminent domain for projects, including routing pipelines in existing utility corridors when possible, requiring proof that an applicant's efforts to negotiate with landowners have failed, or reporting to the Commission each easement as it is agreed upon.[78] However, many regulated companies state that additional measures to minimize the use of eminent domain are unnecessary, as companies have already taken steps to ensure it is used infrequently.[79]

31. Several commenters recommend that the Commission give greater weight to the concerns of impacted landowners and communities.[80] Some assert that landowners have unequal bargaining power with applicants and that the Commission should consider whether an applicant's pre-certificate actions related to landowners demonstrate that the applicant acted in good faith.[81] Additionally, some commenters argue that the Commission should expand the regulatory definition of ''affected landowners'' to ensure all impacted landowners and residents are included in the Commission's consideration.[82]

32. Multiple commenters state that it is the Commission's responsibility to explain the certificate process to landowners and to ensure that they have the necessary tools to fully participate.[83] Regulated companies and industry trade organizations support the creation of the Commission's Office of Public Participation (OPP) to guide landowners' understanding of, and participation in, the pipeline development and review process.[84] Several commenters recommend that the Commission designate certain staff as non-decisional to act as official procedural case managers.[85]

33. Numerous commenters also recommend changes to the Commission's process and resources to assist landowners, including incorporating non-traditional outreach methods to notify and engage stakeholders early and throughout the process, improving the Commission's website and eLibrary system, conducting public meetings and site visits focused on landowner issues, and providing longer public comment periods.[86] Some commenters propose that the Commission automatically grant all affected landowners party status to project proceedings, or, at a minimum, provide an updated step-by-step guide for landowners on how to intervene.[87] Industry trade organizations support longer intervention periods for landowners,[88] while some regulated companies argue that the Commission

[68] *See, e.g.,* Williams Companies, Inc. (Williams) 2021 Comments at 14; Enbridge 2021 Comments at 51; INGAA 2021 Comments at 25–26.

[69] INGAA 2021 Comments at 25–26; Boardwalk 2021 Comments at 38.

[70] *E.g.,* Southern Company Services, Inc. 2021 Comments at 4.

[71] *See, e.g.,* Williams 2021 Comments at 11–12; Boardwalk 2021 Comments at 39–40; *see also* American Forest & Paper Association, Industrial Energy Consumers of America, Process Gas Consumers Group, and the Fertilizer Institute (collectively, American Forest & Paper Association et al.) 2021 Comments at 17; INGAA 2021 Comments at 26–28; AGA 2021 Comments at 32; United Association of Journeymen and Apprentices of the Plumbing, Pipe Fitting and Sprinkler Fitting Industry of the United States and Canada, AFL–CIO (United Association) 2021 Comments at 26–28; NGSA 2021 Comments at 16.

[72] *See, e.g.,* PIO 2021 Comments at 12–13; Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 42; Edward Woll 2021 Comments at 2; William F. Limpert 2021 Comments at 7–8; Massachusetts PipeLine Awareness Network (PLAN) 2021 Comments at 2; Rev. Betsy Sowers 2021 Comments at 2.

[73] EDF 2021 Comments at 50.

[74] EPA 2021 Comments at 4.

[75] *See, e.g.,* Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 43; Upstate Forever 2018 Comments at 3; Jane Twitmyer 2018 Comments at 2; Franklin Regional Council of Gov'ts 2018 Comments at 2.

[76] *See, e.g.,* Boardwalk 2021 Comments at 61–63; TC Energy Corporation 2021 Comments at 16; INGAA 2018 Comments at 56.

[77] *See, e.g.,* TC Energy Corporation 2021 Comments at 19; Spectra Energy Partners LP (Spectra) 2018 Comments at 54; American Petroleum Institute (API) 2018 Comments at 13.

[78] *See, e.g.,* William F. Limpert 2021 Comments at 9; Tom Russo 2021 Comments at 12; Friends of the Central Shenandoah 2018 Comments at 67.

[79] *See, e.g.,* Cheniere 2021 Comments at 9–10; Kinder Morgan Entities (Kinder Morgan) 2021 Comments at 18–20; API 2021 Comments at 11–13; INGAA 2021 Comments at 29.

[80] EDF 2021 Comments at 5; Dr. Susan F. Tierney 2018 Comments at 8, 46–48.

[81] *See, e.g.,* New Jersey Conservation Foundation, Watershed Institute, and Sierra Club 2018 Comments at 35–36; Jody McCaffree 2018 Comments at 7.

[82] *See, e.g.,* Sari DeCesare 2021 Comments at 1; Gary Salata 2021 Comments at 1.

[83] *See, e.g.,* Duke Energy Corporation 2018 Comments at 45; Upstate Forever 2018 Comments at 3.

[84] *See, e.g.,* Kinder Morgan 2021 Comments at 20–21; BHE Pipeline Group 2021 Comments at 6–8; INGAA 2021 Comments at 31–32.

[85] Tom Russo 2021 Comments at 13; American Midstream Partners LP, Canyon Midstream Partners LLC, and Cureton Midstream LLC 2018 Comments at 7–8; Giles County and Roanoke County, Virginia 2018 Comments at 13–14.

[86] *See, e.g.,* Carolyn Elefant 2021 Comments at 5–6; Niskanen Center et al. 2021 Comments at 36–38; Kinder Morgan 2021 Comments at 22–26; Friends of Central Shenandoah 2018 Comments at 69; Spectra 2018 Comments at 5.

[87] *See* Niskanen Center et al. 2021 Comments at 28; Deb Evans and Ron Schaaf 2021 Comments at 13; Carolyn Elefant 2018 Comments at 2–3.

[88] *See* INGAA 2021 Comments at 32.

should limit interventions to entities that have a direct interest in a specific project.[89]

34. A wide range of commenters argue that, in order to prevent needless condemnations while routes are still subject to change and it is uncertain if a project will be authorized, the Commission could defer issuing a certificate or condition a certificate holder's exercise of eminent domain until an applicant obtains all final Federal and State permits and issuance of such permits is sustained if appeal is filed.[90] In contrast, many regulated companies and industry trade organizations assert that the Commission has no authority under the NGA to condition a certificate holder's exercise of eminent domain because eminent domain is a right that arises directly from the NGA.[91] These commenters express concern that if the Commission defers issuing a certificate until an applicant has all authorizations needed to commence construction, it would create practical challenges and could result in unintended consequences (*e.g.,* a pipeline may need survey access in order to obtain information necessary for another permit).[92]

C. The Commission's Consideration of Environmental Impacts

35. Many commenters suggest that the Commission revise its approach to analyzing alternatives under NEPA. Some commenters recommend that the Commission consider a broader scope of alternatives (*e.g.,* modifications to existing infrastructure, co-location with existing infrastructure, and alternative sources of energy generation) [93] or a broader range of factors to compare alternatives (*e.g.,* the quantified and monetized impact of GHG emissions; impact of natural gas exports on domestic energy prices; and cost-effectiveness when accounting for all significant health, productivity, and opportunity costs).[94] Additionally, commenters assert that the Commission should not blindly adopt a project sponsor's project purpose and, consistent with *Citizens Against Burlington, Inc.* v. *Busey,*[95] must evaluate alternatives to achieve the Commission's goals, shaped by the application before it and the Commission's function in the decisional process.[96] In contrast, regulated companies and industry trade organizations state that the current scope of the Commission's alternatives analysis is appropriate and consistent with NEPA, and has been upheld by the courts.[97] These entities also assert that *Busey* prohibits the Commission from considering alternatives that would not meet the purpose and need of the proposed Federal action.[98]

36. Many commenters request that the Commission change how it conducts its cumulative effects analysis under NEPA. For example, NGOs and other commenters recommend that the Commission conduct regional evaluations [99] and prepare programmatic environmental impact statement (EIS) [100] to address cumulative effects. To determine the geographic scope for regional evaluations, commenters recommend that the Commission use a radius around the proposed project (*e.g.,* 100 miles) [101] or consider the project scale, gas source, and end-use location.[102] In contrast, industry trade organizations and regulated companies recommend that the Commission continue to use a project-specific geographic scope for its cumulative effects analysis.[103] These entities assert that the Commission does not have the authority under section 7 of the NGA to conduct regional evaluations, as the Commission only reviews individual pipeline applications, not broader Federal programs or regional actions where a programmatic review might be appropriate.[104]

37. NGOs and individual commenters state that how the Commission balances environmental impacts against favorable economic impacts is unclear, lacks transparency, and requires updating.[105] Several commenters request that the Commission give environmental impacts greater weight.[106] Other commenters criticize the Commission's phased approach to addressing project impacts under the 1999 Policy Statement, and recommend that the Commission balance economic and environmental impacts together.[107] In contrast, industry trade organizations state that the Commission's approach under the 1999 Policy Statement properly balances economic and environmental impacts, giving proportionate consideration to all impacted stakeholders.[108] These entities contend that broadening the balancing would exceed the Commission's discretion under the NGA [109] and that the NEPA requirement to take a ''hard look'' at environmental consequences should remain separate from consideration of economic impacts.[110]

38. Regulated companies and industry trade organizations support the adoption of other agencies' categorical exclusions under NEPA, including those referenced in Commission staff's presentation at the January 19, 2021 Commission meeting (Docket No. RM21–10–000).[111] Additionally, these entities state that a categorial exclusion should apply to certain actions that do not currently qualify for the Commission's blanket certificate authority (*e.g.,* project amendments that would result in no, or minimal, changes to the environment).[112] In contrast, NGOs suggest that there is no need for the Commission to expand its existing categorical exclusions, and they request that the Commission provide a public notice and comment period for all

[89] *See* Adelphia Gateway LLC 2018 Comments at 13–14.

[90] *See, e.g.,* Land Trust Alliance 2021 Comments at 9; Jackie Freedman 2021 Comments at 1; Pipeline Safety Trust 2021 Comments at 2; Terese and Joseph Buchanan May 18, 2021 Comments at 1; Gary Salata 2021 Comments at 1.

[91] *See, e.g.,* INGAA 2021 Comments at 36–38; API 2021 Comments at 15–16; Enbridge 2021 Comments at 70; Cheniere 2021 Comments at 9.

[92] *See, e.g.,* API 2021 Comments at 17–18; Boardwalk 2021 Comments at 63–65.

[93] *See* Friends of the Central Shenandoah 2018 Comments at 75; EPA June 21, 2018 Comments at 1; Leslie Sauer 2018 Comments at 2.

[94] *See* New Jersey Conservation Foundation et al. 2021 Comments at 21–22; Institute for Policy Integrity at New York University School of Law (Policy Integrity) 2018 Comments at 16, 23–24; Pennsylvania Departments of Environmental Protection, Conservation and Natural Resources, and Community and Economic Development 2018 Comments at 6; Carolyn Sellars 2018 Comments at 6.

[95] 938 F.2d 190, 199 (D.C. Cir. 1991).

[96] *See, e.g.,* PIO 2021 Comments at 21–22.

[97] *E.g.,* INGAA 2021 Comments at 39–41.

[98] INGAA 2021 Comments at 41; Iroquois 2021 Comments at 13–14; API 2021 Comments at 19–20; Competitive Enterprise Institute 2021 Comments at 2–3; *see also* Kinder Morgan 2021 Comments at 26–28.

[99] *See, e.g.,* Joint NGOs April 2018 Comments at 2.

[100] *E.g.,* Nature Conservancy 2018 Comments at 2–3; Appalachian Trail Conservancy 2018 Comments at 3.

[101] Kirk Frost May 26, 2021 Comments at 8.

[102] Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 57.

[103] *See, e.g.,* INGAA 2018 Comments at 75; Duke Energy Corporation 2018 Comments at 51–53; Edison Electric Institute 2018 Comments at 16.

[104] *E.g.,* Williams 2021 Comments at 34; INGAA 2021 Comments at 44–45; Boardwalk 2021 Comments at 73.

[105] *See, e.g.,* Delaware Riverkeeper Network 2018 Comments at 92–93; Friends of the Central Shenandoah 2018 Comments at 92–94; Deb Evans and Rob Schaaf 2018 Comments at 12.

[106] *E.g.,* PIO 2021 Comments at 56; Elaine Mroz 2018 Comments at 4.

[107] *See, e.g.,* New Jersey Conservation Foundation et al. 2021 Comments at 18–22; Policy Integrity 2021 Comments at 4; Chesapeake Bay Foundation 2018 Comments at 4.

[108] *E.g.,* API 2021 Comments at 23.

[109] Williams 2021 Comments at 39.

[110] INGAA 2018 Comments at 85–89.

[111] INGAA 2021 Comments at 83–85; Enbridge 2021 Comments at 149–150.

[112] *E.g.,* INGAA 2021 Comments at 84; Enbridge 2021 Comments at 150.

projects in which an applicant proposes to use a categorical exclusion.[113]

D. The Efficiency and Effectiveness of the Commission's Review Process

39. Many commenters recommend changes to the Commission's application review process. For example, some commenters recommend that all affected stakeholders be brought into the process as early as possible,[114] that decisions regarding information requirements be summarized in a comprehensive application completeness checklist, and that the Commission's regulations be amended to encourage applicants to submit complete applications at the outset.[115] Additionally, several commenters recommend changes to the Commission's environmental review process, including that the Commission not prepare a NEPA document absent substantive environmental data for the entirety of the proposed route,[116] that the Commission consider issuing final EISs and certificates at the same time,[117] or, alternatively, that the Commission issue certificates within 90 days of issuance of a final NEPA document.[118] Some commenters also state that the Commission should not inject additional regulatory uncertainty into its review process by requiring open-ended or unduly expansive environmental reviews.[119]

40. Commenters also make a variety of recommendations to increase transparency in the Commission's review process and schedules. For example, some commenters propose that the Commission issue a public notice when a draft order has been circulated by Commission staff to the Commissioners,[120] establish ''permitting timetables'' for NGA section 7(c) projects,[121] and clarify deadlines for parties to intervene or submit studies.[122] Some commenters also recommend that there be a ''cooling off'' period after the issuance of a draft EIS to resolve disputes between an applicant and stakeholders with assistance from the Commission's Dispute Resolution Service.[123]

41. Several commenters recommend changes to the duration of the pre-filing process. Recommendations include shortening the pre-filing process and extending the application review process,[124] collapsing pre-filing into the post-filing process to eliminate lengthy processing times,[125] and condensing the application review process by consolidating as much activity as possible in the pre-filing process and requiring all interested parties planning to object to a project to do so during pre-filing.[126]

42. Many commenters also propose ways to make stakeholder participation more effective. For example, some commenters propose that applicants provide transportation or access to public transportation to public meetings, adequate parking at venues, and options for remote participation.[127] Several commenters also recommend that the Commission provide notices and related materials in multiple languages [128] and issue guidance to ensure that pipeline project developers provide sufficient and timely information.[129] Additionally, some commenters recommend that the Commission's new OPP be a neutral resource to landowners and other stakeholders seeking more information on the Commission's review process.[130] Other commenters recommend that staff prioritize input provided by stakeholders that will be directly impacted by a project,[131] and that all comments submitted to a docket receive a response or some other indication that a member of Commission staff has read the comments.[132]

43. Several commenters note the importance of transparency and coordination in the interagency review process. Some regulated companies recommend that the Commission strengthen its role as the lead agency under NEPA by focusing on educating and training cooperating agencies to be better prepared to meet their own statutory deadlines.[133] Other commenters suggest that the Commission consider standardized schedules for its review processes, such as publishing timelines that include pre-filing, preparation of the NEPA document, and issuance of final orders and authorizations by other agencies,[134] and that the Commission create a dedicated task force for coordinating with other agencies.[135]

44. Many commenters support the separate treatment of different classes of projects, recommending that the Commission provide more timely review of projects with minimal impacts and certain qualifying benefits,[136] or expedite approvals for projects where only an environmental assessment is required and there is no opposition.[137] However, other commenters oppose the separate treatment of different classes of projects, expressing concern that separate treatment would be arbitrary or discriminatory [138] and that some projects would be left in limbo while the Commission takes action on what it perceives as priority projects.[139] Some commenters also suggest changes to the Commission's blanket certificate program, including changing the filing requirements to reduce the number of required resource reports, eliminating the need for weekly reports,[140] increasing both the automatic and prior notice cost limits,[141] and adding consideration of other factors such as a project's acreage to determine eligibility for blanket certificate authority.[142]

E. The Commission's Consideration of Effects on Environmental Justice Communities

45. Many commenters suggest that the Commission revise its approach for identifying environmental justice communities in certificate proceedings. For example, some commenters recommend that the Commission use

[113] PIO 2021 Comments at 72–76.

[114] PIO 2021 Comments at 78; *see also* Dr. Susan F. Tierney 2021 Comments at 41–42.

[115] New Jersey Conservation Foundation et al. 2021 Comments at 30–31.

[116] New Jersey Conservation Foundation et al. 2021 Comments at 31.

[117] Energy Infrastructure Council (EIC) 2021 Comments at 33; Spectra 2018 Comments at 95.

[118] WBI Energy 2021 Comments at 11; INGAA 2018 Comments at 94.

[119] *See, e.g.,* GPA Midstream Association 2021 Comments at 1; Laborers' International Union of North America 2021 Comments at 2.

[120] Kinder Morgan 2021 Comments at 46.

[121] WBI Energy 2021 Comments at 11.

[122] Carolyn Elefant 2021 Comments at 7; Spectra 2018 Comments at 94–95; INGAA 2018 Comments at 96.

[123] Tom Russo 2021 Comments at 23.

[124] Carolyn Elefant 2021 Comments at 6.

[125] American Forest & Paper Association et al. 2021 Comments at 26–27; Spectra 2018 Comments at 98–99.

[126] United Association 2021 Comments at 35–36; INGAA 2018 Comments at 102.

[127] *E.g.,* PLAN 2021 Comments at 3; Edward Woll 2021 Comments at 4; Rev. Betsy Sowers 2021 Comments at 3; Kim Robinson 2021 Comments at 2; Surfrider Foundation 2018 Comments at 2; Delaware Riverkeeper Network 2018 Comments at 57.

[128] Egan Millard 2021 Comments at 3; Robert Kearns 2021 Comments at 3; Inbal Goldstein 2021 Comments at 4.

[129] Dr. Susan F. Tierney 2021 Comments at 42.

[130] WBI Energy 2021 Comments at 10.

[131] Kinder Morgan 2021 Comments at 47–48.

[132] *See, e.g.,* Kim Robinson 2021 Comments at 2; Leslie Sauer Jones and Stephanie Jones June 2021 Comments at 1; James and Kathy Chandler 2018 Comments at 1.

[133] *E.g.,* Kinder Morgan 2021 Comments at 42–43.

[134] Enbridge 2021 Comments at 157.

[135] Kirk Frost May 26, 2021 Comments at 13.

[136] Iroquois 2021 Comments at 18–19.

[137] Kinder Morgan 2021 Comments at 44.

[138] Americans for Prosperity 2021 Comments at 2.

[139] AGA 2021 Comments at 39.

[140] EIC 2021 Comments at 34; TransCanada Corporation 2018 Comments at 32.

[141] API 2021 Comments at 36.

[142] WEC Energy Group, Inc. 2018 Comment at 6–7.

census block-level data;[143] on-the-ground surveys;[144] social, environmental, and health indicators;[145] and other data and tools to identify such communities.[146] Additionally, several commenters recommend that the Commission consult with other Federal and State agencies for assistance with identifying environmental justice communities[147] or allow communities to identify themselves as environmental justice communities.[148]

46. Many commenters also recommend changes to how the Commission evaluates project impacts on environmental justice communities. For example, NGOs assert that the Commission should always use a reference or comparison group when evaluating disproportionately high and adverse impacts on such communities[149] and ensure that such a group is neither too geographically narrow nor too demographically similar to avoid masking disproportionate impacts.[150] NGOs and individual commenters recommend that the Commission consider the existing burden from specific environmental and health indicators when it evaluates cumulative and historic exposures, including the presence of other infrastructure and existing pollution levels in the project area.[151] Additionally, these commenters recommend changes to how the Commission evaluates the impacts of direct and indirect air pollution on environmental justice communities.[152] In contrast, regulated companies and industry trade organizations state that the Commission should not make substantive changes to how it evaluates impacts on environmental justice communities at this time, and recommend that the Commission wait for further guidance from the White House, EPA, and the Council on Environmental Quality (CEQ) to ensure consistency across the Federal Government.[153]

47. Many commenters state that there are barriers to the participation of environmental justice communities in Commission proceedings, including inadequate translation services and the Commission's reliance on electronic media.[154] Other commenters state that Commission proceedings can be highly technical in nature, rendering them inaccessible to the general public unless a participant can invest significant time and resources.[155] A wide range of commenters recommend changes to the Commission's public notice and outreach processes to ensure meaningful engagement with environmental justice communities,[156] including the Commission's process for consulting with Tribes.[157] Many commenters also support the Commission's formation of OPP[158] and recommend that the Commission coordinate with community-based organizations and institutions to further encourage the participation of environmental justice communities in Commission proceedings.[159]

48. Several commenters assert that section 7(e) of the NGA provides the Commission with broad conditioning authority to address project impacts on environmental justice communities in its certificates.[160] Some commenters state that the Commission should use its NEPA alternatives analysis to identify and evaluate ways to mitigate impacts on environmental justice communities.[161] If mitigating adverse impacts on environmental justice communities is not possible, other commenters assert that the Commission should deny a certificate.[162]

49. In contrast, many regulated companies and industry trade organizations state that no Federal statute requires the Commission to implement specific remedial measures to address project impacts on environmental justice communities, but they assert that NEPA provides an appropriate framework in which to analyze such impacts.[163] These entities also contend that that the Commission's conditioning authority under section 7(e) of the NGA is limited to direct project impacts and the Commission could not require measures to redress prior industrial impacts on environmental justice communities or impacts outside of the Commission's jurisdiction.[164]

III. Goals and Objectives of the Updated Certificate Policy Statement

50. While significant changes have occurred in the past 23 years, the Commission's goals and objectives with this Updated Policy Statement remain consistent with those of the 1999 Policy Statement, including to: (1) ''appropriately consider the enhancement of competitive transportation alternatives, the possibility of over building, the avoidance of unnecessary disruption of the environment, and the unneeded exercise of eminent domain;'' [165] (2) ''provide appropriate incentives for the optimal level of construction and efficient customer choices;'' [166] and (3) ''provide an incentive for applicants to structure their projects to avoid, or minimize, the potential adverse impacts that could result from construction of the project.'' [167]

[143] *See, e.g.,* PIO 2021 Comments at 86–87; New Jersey Conservation Foundation et al. 2021 Comments at 38–40.

[144] *See, e.g.,* Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 69; Tom Russo 2021 Comments at 24–25; William F. Limpert 2021 Comments at 19.

[145] New Jersey Conservation Foundation et al. 2021 Comments at 35–38; North Carolina Department of Environmental Quality 2021 Comments at 2; EDF 2021 Comments at 57.

[146] Quincy Democratic City Committee 2021 Comments at 1–2; Natural Resources Defense Council May 2021 Comments at 14–15.

[147] EPA 2021 Comments at 7; Jeannie Ambrose 2021 Comments at 2.

[148] *See* Save Our Illinois Land (SOIL) 2021 Comments at 1; William F. Limpert 2021 Comments at 19; Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 69.

[149] New Jersey Conservation Foundation et al. 2021 Comments at 39–40.

[150] Policy Integrity 2021 Comments at 49–52.

[151] *See, e.g.,* New Jersey Conservation Foundation et al. 2021 Comments at 36–37; Ann W. Woll 2021 Comments at 5; SOIL 2021 Comments at 3.

[152] Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 77–82; EDF 2021 Comments at 58.

[153] API 2021 Comments at 37–39; Enbridge 2021 Comments at 167–168.

[154] Terese and Joseph Buchanan May 18, 2021 Comments at 1; PIO 2021 Comments at 87–89; Robert Kearns 2021 Comments at 4; Jackie Freedman 2021 Comments at 1; Deborah Brown 2021 Comments at 1.

[155] New Jersey Conservation Foundation et al. 2021 Comments at 34.

[156] *See, e.g.,* Kinder Morgan 2021 Comments at 58–59; Ohio Environmental Council 2021 Comments at 3.

[157] Coharie Intra-Tribal Council, Haliwa-Saponi Indian Tribe, Lumbee Tribe of North Carolina, Meherrin Indian Nation of North Carolina, Nottoway Indian Tribe of Virginia, and Occaneechi Band of Saponi Nation 2021 Comments at 2; Haliwa-Saponi Indian Tribe 2021 Comments at 2; Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 71.

[158] *See, e.g.,* API 2021 Comments at 41; EPA 2021 Comments at 8; National Fuel 2021 Comments at 22.

[159] New Jersey Conservation Foundation et al. 2021 Comments at 33–35; Delaware Riverkeeper Network & Berks Gas Truth 2021 Comments at 73–74.

[160] New Jersey Division of Rate Counsel 2021 Comments at 23; PIO 2021 Comments at 105.

[161] INGAA 2021 Comments at 98–99; EPA 2021 Comments at 8–9.

[162] *See, e.g.,* Attorneys General of Massachusetts, Connecticut, Maryland, Minnesota, New Jersey, New York, Oregon, Rhode Island, and the District of Columbia 2021 Comments at 32–33 (Attorneys General of Massachusetts et al.); *see also* PLAN 2021 Comments at 5; Katherine Manuel 2021 Comments at 5; Elizabeth Moulds 2021 Comments at 4; Jessica Greenwood 2021 Comments at 4; Shayna Gleason 2021 Comments at 3; Rick Mattila 2021 Comments at 3.

[163] *See, e.g.,* Williams 2021 Comments at 60–62, 65; Enbridge 2021 Comments at 178–180, 186; Kinder Morgan 2021 Comments at 48, 57; INGAA 2021 Comments at 88–90.

[164] *See, e.g.,* Enbridge 2021 Comments at 181; API 2021 Comment at 44–45.

[165] 1999 Policy Statement, 88 FERC at 61,737.

[166] *Id.* at 61,743.

[167] *Id.*

51. As discussed above, the 1999 Policy Statement included an analytical framework for how the Commission would evaluate the effects of certificating new projects on economic interests. With this Updated Policy Statement, the Commission intends to provide a more comprehensive analytical framework for its decision-making process. Specifically, we provide clarity on how the Commission will evaluate all factors bearing on the public interest, including the balancing of economic and environmental interests in determining whether a project is required by the public convenience and necessity, thus providing more regulatory certainty in the Commission's review process and public interest determinations.

IV. Updated Certificate Policy Statement

A. Factors To Be Balanced in Assessing the Public Convenience and Necessity

52. In determining whether to issue a certificate of public convenience and necessity, the Commission will weigh the public benefits of a proposal, the most important of which is the need that will be served by the project, against its adverse impacts.

1. Consideration of Project Need

53. To demonstrate that a project is required by the public convenience and necessity, an applicant must first establish that the proposed project is needed. As indicated above, the Commission's expectations and requirements for how applicants should demonstrate project need have evolved over time. In the 1999 Policy Statement, the Commission noted concerns associated with relying ''primar[ily]'' [168] or ''almost exclusively'' [169] on contracts to establish need for a new project. Those concerns included the ''additional issues [that arise] when the contracts are held by pipeline affiliates'' [170] and the difficulty such a policy creates for ''articulat[ing] to landowners and community interests why their land must be used for a new pipeline project.'' [171] Thus, the 1999 Policy Statement provided that:

> [r]ather than relying only on one test for need, the Commission will consider *all relevant factors* reflecting on the need for the project. These might include, but would not be limited to, precedent agreements, demand projections, potential cost savings to consumers, or a comparison of projected demand with the amount of capacity currently serving the market.[172]

54. However, in practice, the Commission has relied almost exclusively on precedent agreements to establish project need. Although courts have upheld the Commission's practice in certain contexts,[173] we find that we cannot adequately assess project need without also looking at evidence beyond precedent agreements. After all, as the Commission's 1999 Policy Statement noted, many different factors may indicate the need—or lack thereof—for a new interstate pipeline. While precedent agreements may indicate one or more shipper's willingness to contract for new capacity, such willingness may not in all circumstances be sufficient to sustain a finding of need—*e.g.,* in the face of contrary evidence or where there is reason to discount the probative value of those precedent agreements. Accordingly, we find that looking only to precedent agreements, and ignoring other, potentially contrary, evidence may cause the Commission to reach a determination on need that is inconsistent with the weight of the evidence in any particular proceeding, in violation of both the NGA and the Commission's responsibilities under the Administrative Procedure Act.[174] We reaffirm the Commission's commitment to consider *all* relevant factors bearing on the need for a project. Although precedent agreements remain important evidence of need, and we expect that applicants will continue to provide precedent agreements, the existence of precedent agreements may not be sufficient in and of themselves to establish need for the project. The Commission will also consider, as relevant, the circumstances surrounding the precedent agreements (*e.g.,* whether the agreements were entered into before or after an open season and the results of the open season, including the number of bidders, whether the agreements were entered into in response to LDC or generator requests for proposals (RFP) and, if so, the details around that RFP process, including the length of time from RFP to execution of the agreement), as well as other evidence of need, as discussed below.

55. For all categories of proposed projects, we encourage applicants to provide specific information detailing how the gas to be transported by the proposed project will ultimately be used, why the project is needed to serve that use, and the expected utilization rate of the proposed project. To the extent applicants do not have information on the end use of the gas, they are encouraged to work with their prospective shippers to obtain it. The absence of this information may prevent an applicant from meeting its burden to demonstrate that a project is needed.

56. For a market-driven project that is responding to increased natural gas demand, the evidence relating to the need for the project could include a market study that projects volumetric or peak day load growth. An applicant may rely on publicly available analyses by the Energy Information Administration or other third parties showing projections of market growth. The applicant could also provide its best assessment, based on publicly available information or data, of whether other transportation suppliers may be able to meet the incremental demand with existing capacity to demonstrate why new pipeline construction is necessary. For individual shippers, load growth profiles, gas supply portfolios, and any advanced approval of contracts by State public service commissions would also be helpful in showing evidence of project need.

57. Some projects may not directly serve a customer but rather are being undertaken to add supplies of natural gas to the market. Such projects may be driven by natural gas producers or natural gas utilities attempting to provide supply at lower cost or support reliability by increasing the volumes of natural gas available to customers. For these projects, evidence to demonstrate consumer benefits may include projections of the net benefits, for example projected lower natural gas prices for consumers due to increased supply competition, compared to the incremental costs of transportation on the new pipeline. The Commission will consider record evidence of regional projections for both gas supply and market growth, as well as pipeline-specific studies in these areas.

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[168] *Id.* at 61,744.

[169] *Id.*

[170] *Id.*

[171] *Id.*

[172] *Id.* at 61,747 (emphasis added).

[173] *See, e.g., Minisink Residents for Envtl. Pres. & Safety* v. *FERC,* 762 F.3d 97, 110 n.10 (D.C. Cir. 2014) (noting that the 1999 Policy Statement ''permits'' but does not ''require[ ]'' the Commission to '' look[ ] beyond the market need reflected by the applicant's existing contracts with shippers''). *But see Environmental Defense Fund* v. *FERC,* 2 F.4th 953, 973 (D.C. Cir. 2021) (finding that is was arbitrary and capricious for the Commission to rely solely on a single precedent agreement with an affiliate shipper to establish need when demand for natural gas in the area was flat and the Commission neglected to make a finding as to whether the proposed pipeline would result in a more economical alternative to existing pipelines).

[174] Under the Administrative Procedure Act, an agency cannot ignore substantial evidence bearing on the agency decision. *See* 5 U.S.C. 706; *see also, e.g., Motor Vehicles Mfrs. Ass'n of U.S., Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983) (holding that an agency decision is arbitrary and capricious if it ''entirely fail[s] to consider an important aspect of the problem'').

58. Other pipeline projects may be intended to support more efficient system operations by replacing older and inefficient facilities (*e.g.,* compressors and leak-prone pipes) and performing other infrastructure improvements, or to respond to changing State and Federal Government pipeline safety or environmental requirements. For these projects, applicants may document how proposed facilities, for example pipeline or compressor replacements, provide expected system benefits, such as reduced operating costs, improved pipeline integrity, or reduced natural gas leaks. In addition, an applicant may document how a project avoids adverse impacts or satisfies any changing State or Federal Government regulations.

59. The Commission will consider both current and projected future demand for a project based on the evidence in the record. Applicants are encouraged to submit analyses showing how market trends as well as current and expected policy and regulatory developments would affect future need for the project. Applicants are also encouraged to provide a thorough assessment of alternatives, including supporting data, to facilitate the Commission's review. In assessing the strength of the applicant's need showing, the Commission will consider record evidence of alternatives to the proposed project. The Commission's evaluation will include information indicating that other suppliers would be able to meet some or all of the needs to be served by the proposed project on a timely, competitive basis or whether other factors may eliminate or curtail such needs.

60. As the Commission noted in the 1999 Policy Statement, projects supported by precedent agreements with affiliates raise unique concerns regarding need for the project.[175] And, as the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) recently held in *Environmental Defense Fund* v. *FERC,* ''evidence of 'market need' is too easy to manipulate when there is a corporate affiliation between the proponent of a new pipeline and a single shipper who have entered into a precedent agreement.'' [176] Given those concerns, affiliate precedent agreements will generally be insufficient to demonstrate need. Instead, where projects are backed primarily by precedent agreements with affiliates, the Commission will consider additional information, such as the evidence outlined above.[177] We will determine how much additional evidence is required on a case-by-case determination.

61. To the extent the Commission receives information in the record from third parties addressing the need for a project, that too will be considered in our analysis. Where an applicant fails to carry its burden of demonstrating the proposed project is needed, the Commission will not undertake any further consideration of the project's benefits or adverse effects.

2. Consideration of Adverse Effects

62. In determining whether to issue a certificate of public convenience and necessity, the Commission will consider four major interests that may be adversely affected by the construction and operation of new projects: (1) The interests of the applicant's existing customers; (2) the interests of existing pipelines and their captive customers; (3) environmental interests; and (4) the interests of landowners and surrounding communities, including environmental justice communities. The Commission may deny an application based on any of these types of adverse impacts.

a. Impacts on Existing Customers of the Pipeline Applicant

63. Existing customers of the pipeline applicant may be adversely affected if a proposed project causes an increase in rates or a degradation in service. Regarding potential rate increases, although we are no longer characterizing this issue as a ''threshold question'' in this Updated Policy Statement, our policy of no financial subsidies remains unchanged.[178] That is, the pipeline applicant must be prepared to financially support its proposed project without relying on subsidization by its existing customers. As to other potential impacts to existing customers, like a degradation in service, we will consider the applicant's efforts to eliminate or minimize any such impacts.

64. As the Commission stated in the 1999 Policy Statement, the policy of no financial subsidies does not mean that a project sponsor has to bear all the financial risk of the project; the risk can be shared with new customers, but it generally cannot be shifted to existing customers.[179] One of the Commission's regulatory goals is to protect captive customers from rate increases during the terms of their contracts that are unrelated to the costs associated with their service. And existing customers of the expanding pipeline should not have to subsidize a project that does not serve them.

65. The 1999 Policy Statement also stated that the requirement that a new project must be financially viable without subsidies does not eliminate the possibility that, in some instances, project costs should be rolled into the rates of existing customers.[180] In most instances, incremental pricing will avoid subsidies for the new project, but the situation may be different in cases of inexpensive expansibility that is made possible because of earlier, costly construction.[181] In that instance, because the existing customers bear the cost of the earlier, more costly construction in their rates, incremental pricing could result in the new customers receiving a subsidy from the existing customers because the new customers would not face the full cost of the construction that makes their new service possible.

66. Additionally, expansion costs could still be included in existing shippers' rates when proposed projects are designed to improve service for existing customers.[182] Increasing the rates of existing customers to pay for projects designed to benefit those customers (*i.e.,* by replacing existing capacity, improving reliability, or providing flexibility) is not a subsidy.[183]

b. Impacts on Existing Pipelines and Their Customers

67. As the Commission stated in the 1999 Policy Statement, existing pipelines that already serve the market to be served by the proposed new capacity may be affected by the potential loss of market share and the possibility that they may be left with unsubscribed capacity investment.[184] Additionally, captive customers of existing pipelines may be affected if they must pay for the resulting unsubscribed capacity in their rates. These remain important concerns.

[175] 1999 Policy Statement, 88 FERC at 61,739–40 (noting that the ''use of contracts with affiliates to demonstrate market support for projects has generated opposition from affected landowners and competitor pipelines who question whether the contracts represent real market demand'') and 61,744 (stating that ''[u]sing contracts as the primary indicator of market support for the proposed pipeline project also raises additional issues when the contracts are held by pipeline affiliates.'').

[176] 2 F.4th at 973.

[177] *See supra* P 55.

[178] 1999 Policy Statement, 88 FERC at 61,746–47, *clarified,* 90 FERC at 61,391–96.

[179] 1999 Policy Statement, 88 FERC at 61,746. For new pipeline companies, without existing customers, this requirement has no application.

[180] *Id.*

[181] *Id.*

[182] *Order Clarifying Statement of Policy,* 90 FERC at 61,391.

[183] *Id.* at 61,393.

[184] 1999 Policy Statement, 88 FERC at 61,748.

68. It has been the Commission's long-standing position that it has an obligation to ensure fair competition, but that it is not the role of the Commission to protect existing pipelines from the effects of competition.[185] While we continue to maintain this position, we also emphasize that it is not just unfair competition that can harm captive customers. The Commission must consider the possible harm to captive customers that can result from a new pipeline, regardless of whether there is evidence of unfair competition.

69. Congress enacted the NGA ''with the principal aim of encouraging the orderly development of plentiful supplies of . . . natural gas at reasonable prices, and protecting consumers against exploitation at the hands of natural gas companies.'' [186] Ensuring the orderly development of natural gas supplies includes preventing overbuilding. One way that the Commission can prevent overbuilding is through careful consideration of a proposed project's impacts on existing pipelines. To the extent that a proposed project is designed to substantially serve demand already being met on existing pipelines, that could be an indication of potential overbuilding. Nevertheless, in such instances, the Commission will also consider whether the proposed project would offer certain advantages (*e.g.,* providing lower costs to consumers or enhancing system reliability).

70. Comments from existing pipelines and their captive customers about the potential impacts from a proposed project will be an important piece of our review. Additionally, comments from State utility or public service commissions as to how a proposed project may impact existing pipelines will be particularly useful.

c. Environmental Impacts

71. As noted above, the 1999 Policy Statement included an analytical framework for how the Commission would evaluate the effects of certificating new projects on economic interests. However, the 1999 Policy Statement did not describe how the Commission would consider environmental interests in its decision-making process and, more specifically, how it would balance these interests with the economic interests of a project. Instead, it stated that environmental interests would be ''separately considered'' in a certificate proceeding after the balancing of public benefits against the residual adverse effects on economic interests.[187]

72. While the 1999 Policy Statement focused on economic impacts, the consideration of environmental impacts is an important part of the Commission's responsibility under the NGA to evaluate all factors bearing on the public interest.[188] In the years immediately following issuance of the 1999 Policy Statement, the Commission would sometimes issue a preliminary determination on the non-environmental issues associated with a proposed project, and then issue a subsequent decision on the certificate application following the environmental review process; however, in practice, Commission staff would begin review of both the economic and environmental impacts following the filing of an application. Today, the Commission no longer issues preliminary determinations on non-environmental issues, and the Commission and staff continue to review the economic and environmental impacts of projects concurrently. Thus, the sequential framing of these analyses in the 1999 Policy Statement has created some confusion and incorrectly conveyed how the Commission considers environmental impacts. In addition to questions about sequencing, we have seen a significant increase in comments from a range of stakeholders expressing concerns about how the Commission considers environmental impacts, including impacts on climate change and environmental justice communities, in its public interest determinations.

73. To provide more clarity and regulatory certainty to all participants in certificate proceedings, we explain here how the Commission will consider environmental impacts.[189] The Commission will balance all impacts, including economic and environmental impacts, together in its public interest determinations under the NGA. As discussed further below, the potential adverse impacts will be weighed against the evidence of need and other potential benefits of a proposal in determining whether to issue a certificate of public convenience and necessity.

74. We will consider environmental impacts and potential mitigation in both our environmental reviews under NEPA and our public interest determinations under the NGA. The Commission expects applicants to structure their projects to avoid, or minimize, potential adverse environmental impacts. Additionally, we expect applicants to propose measures for mitigating impacts, and we will consider those measures—or the lack thereof—in balancing adverse impacts against the potential benefits of a proposal. Further, the NGA grants the Commission broad authority to attach reasonable terms and conditions to certificates of public convenience and necessity.[190] Should we deem an applicant's proposed mitigation of impacts inadequate to enable us to reach a public interest determination, we may condition the certificate to require additional mitigation. We may also deny an application based on any of the types of adverse impacts described herein, including environmental impacts, if the adverse impacts as a whole outweigh the benefits of the project and cannot be mitigated or minimized.

75. As noted above, since issuance of the 1999 Policy Statement, the Commission's policy for considering climate impacts has evolved.[191] In addition to the significant increase in comments from stakeholders, the courts have issued several decisions addressing the Commission's evaluation of GHG emissions in certificate proceedings. The D.C. Circuit recently held that reasonably foreseeable downstream GHG emissions are an indirect effect of the Commission authorizing proposed projects [192] and are relevant to the Commission's determination of whether proposed projects are required by the public convenience and necessity.[193]

[185] *See Ruby Pipeline, L.L.C.,* 128 FERC ¶ 61,224, at PP 37–39 (2009); *see also* 1999 Policy Statement, 88 FERC at 61,748.

[186] *City of Clarksville, Tennessee* v. *FERC,* 888 F.3d at 479 (quoting *NAACP* v. *FPC,* 425 U.S. at 669–70 and *FPC* v. *Hope Nat. Gas Co.,* 320 U.S. at 610).

[187] 1999 Policy Statement, 88 FERC at 61,747.

[188] *See Atl. Ref. Co.* v. *Pub. Serv. Comm'n of N.Y.,* 360 U.S. at 391 (holding that the NGA requires the Commission to consider ''all factors being on the public interest''); *see also Sabal Trail,* 867 F.3d at 1373 (explaining that the Commission must consider a pipeline's direct and indirect GHG emissions because the Commission may ''deny a pipeline certificate on the ground that the pipeline would be too harmful to the environment'').

[189] Recognizing that CEQ is in the process of revising its NEPA regulations, the Commission will consider the comments in this docket regarding NEPA in our future review of our regulations, procedures, and practices for implementing NEPA.

[190] 15 U.S.C. 717f(e); *see also, e.g., ANR Pipeline Co.* v. *FERC,* 876 F.2d 124, 129 (D.C. Cir. 1989) (noting the Commission's ''extremely broad'' conditioning authority).

[191] *Supra* P 15.

[192] *Sabal Trail,* 867 F.3d at 1374.

[193] *Id.* at 1373. In *Birckhead* v. *FERC,* 925 F.3d 510, 518 (D.C. Cir. 2019), the D.C. Circuit rejected the Commission's position that *Sabal Trail* is limited to the narrow facts of that case. While the court in *Birckhead* acknowledged that downstream emissions may not always be a foreseeable effect of natural gas projects, it rejected the notion that downstream GHG emissions are a reasonably foreseeable indirect effect of a natural gas project only if a specific end destination is identified. The court further noted that the Commission should attempt to obtain information on downstream uses

76. Concurrently with this Updated Policy Statement, we are issuing a separate policy statement to explain how the Commission will assess project impacts on climate change in certificate proceedings going forward.[194] This separate policy statement describes Commission procedures for evaluating climate impacts under NEPA and explains how the Commission will integrate climate considerations into its public convenience and necessity findings under the NGA, including how the Commission will consider measures to mitigate climate impacts. When making public interest determinations, we intend to fully consider climate impacts, in addition to other environmental impacts.

d. Impacts on Landowners and Surrounding Communities

77. The construction and operation of new natural gas infrastructure has the potential to result in adverse impacts on the landowners and communities surrounding a project. As the Commission stated in the 1999 Policy Statement:

> [l]andowners whose land would be condemned for the new pipeline right-of-way, under eminent domain rights conveyed by the Commission's certificate, have an interest as does the community surrounding the right-of-way. The interest of these groups is to avoid unnecessary construction, and any adverse effects on their property associated with a permanent right-of-way.[195]

In the over 20 years that have passed since issuance of the 1999 Policy Statement, the Commission has seen an increase in proposals for projects in more densely populated areas, as well as a significant increase in comments from landowners raising a multitude of economic, environmental, and others concerns with proposed projects.

78. While the 1999 Policy Statement focused primarily on the economic impact associated with a permanent right-of-way on a landowner's property,[196] going forward, and as discussed below, our analysis of impacts to landowners will be more expansive. This fuller consideration of landowner impacts is consistent with the Commission's approach in recent years of more fully engaging with landowners to ensure that their concerns are properly considered in our proceedings. For example, in June 2021, the Commission established OPP, in part, to facilitate public participation in Commission proceedings.

79. In addition to the increase in comments from landowners since issuance of the 1999 Policy Statement, the Commission has also seen a significant increase in comments raising environmental justice concerns. In recent years, issues surrounding environmental justice and equity have received increased focus and attention at both the State and Federal levels, as demonstrated by the recent issuance of Executive Orders 13985 and 14008, referenced above.[197] The Commission is committed to ensuring that environmental justice and equity concerns are better incorporated into our decision-making processes. Accordingly, we clarify that our consideration of impacts to communities surrounding a proposed project will include an assessment of impacts to any environmental justice communities and of necessary mitigation to avoid or lessen those impacts.

80. The Commission and applicants have a shared responsibility to engage communities that may be impacted by a proposed project. This responsibility includes ensuring effective communication with landowners and environmental justice communities about potential impacts and giving careful consideration to the input of such parties during the agency proceeding. Below, we further discuss our expectations for how pipeline applicants will engage with landowners, steps the Commission has taken to protect landowner interests, and how the Commission will consider potential impacts to landowners and environmental justice communities.

i. Impacts on Landowners

81. As noted above, once the Commission grants a certificate of public convenience and necessity, section 7(h) of the NGA authorizes a certificate holder to acquire the necessary land or property to construct the approved facilities by exercising the right of eminent domain for those lands for which it could not negotiate an easement with landowners.[198] As the Commission has previously recognized:

> [t]here is no question that eminent domain is among the most significant actions that a government may take with regard to an individual's private property. And the harm to an individual from having their land condemned is one that may never be fully remedied, even in the event they receive their constitutionally-required compensation.[199]

Thus, looking only at the economic impacts associated with eminent domain does not sufficiently account for the full scope of impact on landowners. Landowners whose property is subject to eminent domain often experience intangible impacts, which cannot always be monetized. Our consideration of landowner impacts will be based upon robust early engagement with all interested landowners, as well as continued evaluation of input from such parties during the course of any given proceeding. And we will, to the extent possible, assess a wider range of landowner impacts.

82. Given the serious impacts associated with the use of eminent domain, we expect pipeline applicants to take all appropriate steps to minimize the future need to use eminent domain. This includes engaging with the public and interested stakeholders during the planning phase of projects to solicit input on route concerns and incorporate reroutes, where practicable, to address landowner concerns, as well as providing landowners with all necessary information. Additionally, we expect pipelines to take seriously their obligation to attempt to negotiate easements respectfully and in good faith with impacted landowners. The Commission will look unfavorably on applicants that do not work proactively with landowners to address concerns.

83. Additionally, we note that that, while a certificate provides the holder with significant rights and privileges, it also imposes concomitant responsibilities, including complying with all certificate conditions. Specifically, certificate holders must comply with requirements regarding restoration of the pipeline right-of-way. Failure to comply with such requirements could mean that a pipeline is out of compliance with its certificate, and could lead to compliance action by the Commission, including referral to the Commission's Office of Enforcement for further investigation and potential civil penalties.[200]

84. Although the Commission does not have the authority to deny or restrict the power of eminent domain in a section 7 certificate,[201] or to oversee the

to determine whether downstream GHG emissions are a reasonably foreseeable effect of the project. *Birckhead,* 925 F.3d at 518–19.

[194] GHG Policy Statement, 178 FERC ¶ 61,108.

[195] 1999 Policy Statement, 88 FERC at 61,748.

[196] *Id.* at 61,749 (''The balancing of interests and benefits that will precede the environmental analysis will largely focus on economic interests such as the property rights of landowners.'').

[197] *Supra* P 16.

[198] 15 U.S.C. 717f(h).

[199] *Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order 871–B, 86 FR 26150 (May 13, 2021), 175 FERC ¶ 61,098, at P 47 (2021).

[200] *See, e.g., Midship Pipeline Co., LLC,* 177 FERC ¶ 61,187 (2021).

[201] *See Midcoast Interstate Transmission, Inc.* v. *FERC,* 198 F.3d 960, 973 (D.C. Cir. 2000) (''The

Continued

acquisition of property rights through eminent domain, including issues regarding the timing of and just compensation for the acquisition of property rights,[202] the Commission has recently taken steps within its authority to protect landowner interests. Specifically, the Commission issued Order No. 871–B, which precludes authorization of construction during the rehearing period for certificate orders and pending resolution of rehearing requests reflecting opposition to project construction, operation, or need (subject to a time limitation), and which establishes a general policy, subject to a case-by-case determination, of staying certificate orders during the rehearing period and pending Commission resolution of any timely requests for rehearing filed by landowners (also subject to a time limitation).[203]

85. We acknowledge that in many cases pipeline applicants will not be able to acquire all the necessary right-of-way by negotiation and in such instances may need to use eminent domain. In assessing potential impacts to landowners, the Commission will consider the steps a pipeline applicant has already taken to acquire lands through respectful and good faith negotiation, as well as the applicant's plans to minimize the use of eminent domain upon receiving a certificate. And, as discussed further below, the potential adverse impacts to landowners, along with other adverse impacts, will be weighed against the evidence of need and potential benefits of a proposal in determining whether to issue a certificate of public convenience and necessity.

ii. Impacts on Environmental Justice Communities

86. Our evaluation of the impacts of a proposed interstate natural gas pipeline will include a robust consideration of its impacts on environmental justice communities.[204] We recognize that environmental justice communities have long borne a disproportionate share of the impacts associated with industrial development near their residences, workplaces, religious institutions, and schools. That history often comes with significant, deleterious consequences. For example, environmental justice communities frequently experience health disparities, such as higher rates of asthma and certain cancers relative to society at large, which can render individuals in those communities particularly susceptible to incremental pollution and other adverse impacts that may be caused by a new project.[205] The Commission's public interest responsibility demands that we seriously evaluate these considerations and incorporate them into the balancing test outlined below.[206]

87. For the Commission to adequately evaluate the impacts of a proposed project on environmental justice communities, it is essential to promptly and properly identify such communities. Commenters noted the insufficiency of relying only on initial screening tools to identify environmental justice communities.[207] While data from screening tools such as the EPA's EJSCREEN may be useful, additional data collection methods may be necessary to properly identify environmental justice communities. We encourage applicants to consult with guidance provided by EPA, CEQ, and other authoritative sources,[208] to ensure that the Commission has before it all the data needed to adequately identify environmental justice communities potentially affected by a proposed project. We will evaluate and incorporate, as appropriate, any subsequently issued guidance when considering how to identify environmental justice communities affected by a proposed project. We encourage project developers to do the same.

88. Many commenters encourage the Commission to factor in demographic considerations—such as disability, age, household income, pre-existing health conditions, and level of education.[209] We recognize that such demographic considerations may be appropriate to consider on a project-by-project basis or as Federal guidance evolves.

89. Additionally, we recognize that proper selection of both the geographic unit of analysis (*e.g.,* census block group) within the affected environment and the reference community (*e.g.,* county/parish, or State) is necessary to ensure that affected environmental justice communities are properly identified for consideration in the Commission's analysis.[210] The affected environment for environmental justice analysis purposes may vary according to the characteristics of the particular project and the surrounding communities.[211] Accordingly, the Commission will ensure that the delineation of the affected area, selected geographic unit of analysis, and reference community are consistent with best practices and Federal guidance and will not be limited to a one-size-fits-all approach.[212]

90. The consideration of cumulative impacts [213] is particularly important when it comes to conducting an environmental justice analysis.[214] An environmental analysis that, for example, considers incremental impacts of a project in isolation will, almost by definition, fail to adequately consider the project's impact on a community that already experiences elevated levels of pollution or other adverse impacts. To adequately capture the effects of

Commission does not have the discretion to deny a certificate holder the power of eminent domain.'').

[202] *PennEast Pipeline Co., LLC,* 174 FERC ¶ 61,056, at P 10 (2021) (citing *Atl. Coast Pipeline, LLC,* 164 FERC ¶ 61,100, at P 88 (2018); *Mountain Valley Pipeline, LLC,* 163 FERC ¶ 61,197, at P 76 (2018); *PennEast Pipeline Co., LLC,* 164 FERC ¶ 61,098, at P 33 n.82 (2018)).

[203] *Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order 871–B, 86 FR 26150 (May 13, 2021), 175 FERC ¶ 61,098, *order on reh'g,* Order 871–C, 86 FR 43077 (Aug. 6, 2021), 176 FERC ¶ 61,062 (2021).

[204] We recognize that the Commission's environmental justice analysis will also apply to the Commission's authorization of liquefied natural gas facilities, pursuant to section 3 of the NGA. While those authorizations are not the subject of this Updated Policy Statement, this commitment is worth noting in this discussion of impacts on environmental justice communities.

[205] Policy Integrity 2021 Comments at 46–47, 55–56.

[206] *Vecinos para el Bienestar de la Comunidad Costera* v. *FERC,* 6 F.4th 1321 (D.C. Cir. 2021) (*Vecinos*) (remanding a Commission order based in part on a ''deficient'' environmental justice analysis).

[207] For example, screening tool data ''may need to be supplemented with additional or more localized information and/or ground truthing.'' EPA 2021 Comments at 7, 9.

[208] This may include, for example, relevant State or local agencies. We also note that Federal agencies, including EPA and CEQ, are in the process of updating their guidance regarding environmental justice.

[209] North Carolina DEQ 2018 Comments at 8. *See also* Niskanen Center 2018 Comments at 17–19.

[210] An overly broad geographic unit of analysis, for example, could dilute the presence of environmental justice communities. *See* Policy Integrity 2021 Comments at 46–48; *see also* Federal Interagency Working Group on Environmental Justice & NEPA Committee, *Promising Practices for EJ Methodologies in NEPA Reviews* at 21, 26 (March 2016), *https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf* (EJ IWG & NEPA Committee).

[211] *See Vecinos,* 6 F.4th at 1330 (''When conducting an environmental justice analysis, an agency's delineation of the area potentially affected by the project must be 'reasonable and adequately explained,' . . . and include 'a rational connection between the facts found and the decision made.' '' (citations omitted)).

[212] *See* EJ IWG & NEPA Committee at 21–28.

[213] '' 'Cumulative impact' is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.'' 40 CFR 1508.7 (1978).

[214] *See* EDF 2021 Comments at 58; Attorneys General of Massachusetts et al. 2021 Comments at 31; Delaware Riverkeeper & Berks Gas Truth 2021 Comments at 78 and 83; and SOIL 2021 Comments at 3.

cumulative impacts, it is essential that the Commission consider those pre-existing conditions and how the adverse impacts of a proposed project may interact with and potentially exacerbate them. To that end, several commenters provide recommendations for specific health and environmental indicators that the Commission should consider when it evaluates cumulative exposures. These include factors such as air pollution, heat vulnerability, as well as the effects of pre-existing infrastructure (*e.g.,* bus depots, highways, and waste facilities).[215] That analysis can be informed by a wide range of data, including, for example, health statistics such as cancer clusters, asthma rates, social vulnerability data, and community resilience data.[216] We will carefully examine cumulative impacts on environmental justice communities and encourage applicants to identify and submit any such data that may be relevant for the particular environmental justice communities affected by their proposed project.

91. The Commission will also consider measures to eliminate or mitigate a project's adverse impacts on environmental justice communities. We recognize that mitigation must be tailored to the needs of different environmental justice communities. This will require close consultation between the project developer, the communities in question, and the Commission, consistent with our *ex parte* regulations.[217] We will look with disfavor on mitigation proposals that are proposed without sufficient community input. In addition, we note that effective mitigation will require the Commission to consider, among other things, the feasibility of proposed mitigation and methods for ensuring compliance, the timing of proposed mitigation, and, where useful, a range of potential mitigation options.

92. As described above, in June 2021, the Commission established OPP to help facilitate public participation in Commission proceedings. We anticipate that OPP will similarly play an important role in ensuring that environmental justice communities are able to participate meaningfully in section 7 certificate proceedings that affect their interests. We also recognize the adverse impacts that natural gas infrastructure can have on Native American Tribes and Tribal resources, and we will continue to review our existing processes to ensure that the Commission is engaging in effective government-to-government consultation with Tribes and receiving and considering Tribal input on proposals.

93. In sum, we recognize that ''environmental justice is not merely a box to be checked'' [218] and we commit to ensuring that such concerns are fully considered in our public interest analysis under NGA section 7. We expect the principles and concerns outlined above will guide that consideration as the Commission continues to develop its environmental justice precedent. Finally, as noted above, we recognize that Federal agencies, including EPA and CEQ, are in the process of updating their guidance regarding environmental justice and we will review and incorporate, as appropriate, any future guidance in our case-by-case decision-making process.

B. Assessing Public Benefits and Adverse Effects

94. In deciding whether to issue a certificate of public convenience and necessity, the Commission must decide whether, on balance, the project will serve the public interest. In order to make such a determination, the Commission must consider all of the benefits of a proposal together with all of the adverse impacts, including the economic and environmental impacts.

95. As discussed above, under the 1999 Policy Statement, the Commission would first determine whether, given an applicant's efforts to mitigate or minimize impacts, there would be any residual adverse effects on the economic interests of the existing customers of the pipeline applicant, existing pipelines in the market and their captive customers, or landowners and communities affected by the proposal. If so, the Commission would balance the evidence of public benefits to be achieved by the project against those residual adverse effects on economic interests. If the benefits outweighed the adverse economic effects, the Commission would then consider the environmental impacts associated with the proposal.[219]

96. As noted above, today, the Commission and staff review the economic and environmental impacts of projects concurrently. Thus, the sequential framing of these analyses in the 1999 Policy Statement has created some confusion and incorrectly conveyed how the Commission considers economic and environmental impacts. Accordingly, to provide clarity regarding our decision-making process, we explain that, in order to determine whether a proposed project is in the public interest, we must look at the entirety of a proposal and balance all its benefits against all of its adverse impacts.

97. In assessing the public benefits of a project, the Commission intends to consider all benefits that will be provided by the project. The most important consideration in assessing benefits will be the evidence demonstrating that a project is needed, as discussed in more detail above. The Commission will also consider any benefits beyond demand that are alleged by the applicant and supported in the record, which may include evidence that the project will displace more pollution-heavy generation sources, facilitate the integration of renewable energy sources, and/or result in a significant source of jobs or tax revenues (we note that temporary impacts associated with a proposal will generally be given less weight).

98. In assessing the adverse impacts of a proposal, we will consider the range of impacts to: (1) Existing customers of the pipeline applicant; (2) existing pipelines in the market and their captive customers; (3) environmental resources; and (4) landowners and surrounding communities, including environmental justice communities. In reviewing those adverse impacts, the Commission will carefully consider the extent to which an applicant will be able to mitigate any adverse impacts through applicant-proposed measures or additional measures that the Commission could require.

99. Consistent with the 1999 Policy Statement, we believe that ''[t]he more interests adversely affected or the more adverse impact a project would have on a particular interest, the greater the showing of public benefits from the project required to balance the adverse impact.'' [220] And, as the Commission did in the 1999 Policy Statement, we decline to adopt any bright-line standards for how we will carry out this balancing; [221] rather, the approach must remain flexible enough for the Commission to resolve specific cases and take into account the different interests that must be considered. We do make clear, however, that there may be proposals denied solely on the magnitude of a particular adverse

[215] New Jersey Conservation Foundation et al. 2021 Comments 2021 at 36–37.

[216] EPA, *EnviroAtlas Interactive Map, https://www.epa.gov/enviroatlas/enviroatlas-interactive-map* (last visited Feb. 1, 2022); Centers for Disease Control and Prevention, *Social Vulnerability Index Interactive Map, https://svi.cdc.gov/map.html* (last visited Feb. 1, 2022).

[217] 18 CFR 385.2201.

[218] *Friends of Buckingham* v. *State Air Pollution Control Bd.,* 947 F.3d 68, 92 (4th Cir. 2020).

[219] 1999 Policy Statement, 88 FERC at 61,745–46.

[220] *Id.* at 61,749.

[221] *Id.*

impact to any of the four interests described above if the adverse impacts, as a whole, outweigh the benefits of the project and cannot be mitigated or minimized. On the other hand, there may be proposals that have significant impacts but are still found to be in the public interest if the public benefits outweigh those impacts.

V. Applicability of the Updated Certificate Policy Statement

100. A major purpose of this Updated Policy Statement is to provide clarity and regulatory certainty regarding the Commission's decision-making process. Therefore, the Updated Policy Statement will not be applied retroactively to cases where a certificate has already been issued and investment decisions have been made. However, the Commission will apply the Updated Policy Statement to any currently pending applications for new certificates. Applicants will be given the opportunity to supplement the record and explain how their proposals are consistent with this Updated Policy Statement, and stakeholders will have an opportunity to respond to any such filings.

VI. Information Collection Statement

101. The collection of information discussed in the Updated Policy Statement is being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 [222] and OMB's implementing regulations.[223] OMB must approve information collection requirements imposed by agency rules.[224] Respondents will not be subject to any penalty for failing to comply with a collection of information if the collection does not display a valid OMB control number.

102. The Commission solicits comments from the public on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, recommendations to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. *Public comments are due* May 2, 2022. The burden estimates are focused on implementing the voluntary information collection pursuant to this Updated Policy Statement. The Commission asks that any revised burden estimates submitted by commenters include the details and assumptions used to generate the estimates.

103. The following estimate of reporting burden is related only to this Updated Policy Statement.

104. *Public Reporting Burden:* The collection of information related to this Updated Policy Statement falls under FERC–537 and impacts the burden estimates associated with the ''Interstate Certificate and Abandonment Applications'' component of FERC–537. The Updated Policy Statement will not impact the burden estimates related to any other component of FERC–537.[225] The estimated annual burden [226] and cost [227] follow.

MODIFICATIONS TO FERC–537 (GAS PIPELINE CERTIFICATES: CONSTRUCTION, ACQUISITION, AND ABANDONMENT) AS A RESULT OF PL18–1–000

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Interstate Certificate and Abandonment Applications.	40	1	40	880 hours; $76,560 Increase.	35,200 hours; $3,062,400 Increase.	$76,560 Increase.

105. *Title:* FERC–537, Gas Pipeline Certificates: Construction, Acquisition and Abandonment.

106. *Action:* Proposed revisions to an existing information collection.

107. *OMB Control No.:* 1902–0060.

108. *Respondents:* Entities proposing natural gas projects under section 7 of the NGA.

109. *Frequency of Information Collection:* On occasion.

110. *Necessity of Voluntary Information Collection:* The Commission's existing FERC–537 information collection pertains to regulations implementing section 7 of the NGA, which authorizes the Commission to issue certificates of public convenience and necessity for the construction and operation of facilities transporting natural gas in interstate commerce. The information collected pursuant to this Updated Policy Statement should help the Commission in making its public interest determinations.

111. *Internal Review:* The opportunity to file the information conforms to the Commission's plan for efficient information collection, communication, and management within the natural gas pipeline industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the opportunity to file the information.

112. Interested persons may provide comments on this information collection by one of the following methods:

- *Electronic Filing (preferred):* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- *USPS:* Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426.
- *Hard copy other than USPS:* Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[222] 44 U.S.C. 3507(d).

[223] 5 CFR 1320.

[224] This Updated Policy Statement does not require the collection of any information, but rather discusses information that entities may elect to provide. The Commission is following Paperwork Reduction Act procedures to ensure compliance with that act.

[225] The Updated Policy Statement will not impact burden estimates to the following components of FERC–537: Pipeline Purging/Testing Exemptions, Blanket Certificates Prior Notice Filings, Blanket Certificates-Annual Reports, Section 311 Construction-Annual Reports, Request for Waiver of Capacity Release Regulations, Interstate and Intrastate Bypass Notice, Blanket Certificates, or Hinshaw Blanket Certificates.

[226] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. *See* 5 CFR 1320 for additional information on the definition of information collection burden.

[227] Commission staff estimates that the industry's average hourly cost for this information collection is approximated by the Commission's average hourly cost (for wages and benefits) for 2021, or $87.00/hour.

VII. Document Availability

113. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

114. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

115. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By the Commission. Commissioner Danly is dissenting with a separate statement attached.

Commissioner Christie is dissenting with a separate statement attached.

Issued: February 18, 2022.

Kimberly D. Bose,

Secretary.

DEPARTMENT OF ENERGY FEDERAL ENERGY REGULATORY COMMISSION

Certification of New Interstate Natural Gas Facilities

Docket No. PL18–1–000

DANLY, Commissioner, *dissenting:*

1. I dissent from the issuance of the *Updated Policy Statement on Certification of New Interstate Natural Gas Facilities.*[1] Before I explain my reasons for dissenting, I would like to state from the outset that I voted for the Commission's most recent revised Notice of Inquiry [2] considering changes to its Original Policy Statement.[3]

2. I cannot, however, support today's issuance because it will, in combination with the Interim Greenhouse Gas (GHG) Policy Statement,[4] have profound implications for the ability of natural gas companies to secure capital, on the timelines for Natural Gas Act (NGA) section 7 [5] applications to be processed, and on the costs that a pipeline and its customers will bear as a result of the potentially unmeasurable mitigation that the majority *expects* each company to propose when filing its application [6] and the possibility of further mitigation measures added unilaterally by the Commission. As I explain in more detail below, this policy statement contravenes the purpose of the NGA which, as the Supreme Court has held, is to ''encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices.'' [7]

I. The Commission's Jurisdiction and the Public Convenience and Necessity Standard Are Not as Broad as the Updated Policy Statement Suggests

3. As an initial matter, the Commission ''is a 'creature of statute,' having 'no constitutional or common law existence or authority, but *only* those authorities conferred upon it by Congress.' '' [8] The applicable statute is the NGA, and the statutory standard applicable to NGA section 7(c) certificate applications [9] is whether a proposed project ''is or will be required by the present or future public convenience and necessity.'' [10]

4. Notably, *public convenience and necessity* is not anywhere defined in the language of the NGA.[11] That phrase is famously ambiguous, and the statute fails to provide factors to be weighed in arriving at a determination that a proposed project ''is or will be required by the present or future public convenience and necessity.'' [12] Accordingly, ''the Natural Gas Act 'vests the Commission with broad discretion to invoke its expertise in balancing competing interests and drawing administrative lines.' '' [13] This does not, of course, mean that we are wholly without guideposts in construing the meaning of the public convenience and necessity standard. As recognized by my colleagues, the Supreme Court has found that NGA section ''7(e) requires the Commission to evaluate all factors bearing on the public interest.'' [14] This finding, however, cannot not be read in a vacuum. The Court has explained that the inclusion of the phrase ''public interest'' in a statute is not ''a broad license to promote the general public welfare''—instead, it ''take[s] meaning from the purposes of the regulatory legislation.'' [15] Thus, we turn, as we must, to the purpose of the NGA: ''to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices.'' [16] Any balancing under the public convenience and necessity standard should ''take meaning'' from that purpose.

5. We also know that ''[n]othing contained in [NGA section 7] shall be construed as a limitation upon the power of the Commission to grant

[1] *Certification of New Interstate Nat. Gas Facilities,* 178 FERC ¶ 61,107 (2022) (Updated Policy Statement).

[2] *Certification of New Interstate Nat. Gas Facilities,* 174 FERC ¶ 61,125 (2021).

[3] *Certification of New Interstate Nat. Gas Pipeline Facilities,* 88 FERC ¶ 61,227 (1999), *clarified,* 90 FERC ¶ 61,128, *further clarified,* 92 FERC ¶ 61,094 (2000) (Original Policy Statement).

[4] *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews,* 178 FERC ¶ 61,108 (2022) (Interim GHG Policy Statement). I note that today's issuance in Docket No. PL21–3–000 ''is subject to revision'' and is described as an ''interim'' policy statement. *Id.* P 1.

[5] 15 U.S.C. 717f.

[6] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 74 (''[W]e expect applicants to propose measures for mitigating impacts, and we will consider those measures—or the lack thereof—in balancing adverse impacts against the potential benefits of a proposal.'').

[7] *NAACP* v. *FPC,* 425 U.S. 662, 669–70 (1976) (citations omitted) (*NAACP*); *accord Myersville Citizens for a Rural Cmty., Inc.* v. *FERC,* 783 F.3d 1301, 1307 (D.C. Cir. 2015) (quoting *NAACP,* 425 U.S. at 669–70) (*Myersville*).

[8] *Atl. City Elec. Co.* v. *FERC,* 295 F.3d 1, 8 (D.C. Cir. 2002) (quoting *Michigan* v. *EPA,* 268 F.3d 1075, 1081 (D.C. Cir. 2001)) (emphasis in original).

[9] 15 U.S.C. 717f(c).

[10] *Id.* § 717f(e) (''[A] certificate shall be issued to any qualified applicant therefor, . . . if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, *is or will be required by the present or future public convenience and necessity;* otherwise such application shall be denied.'') (emphasis added); *see Okla. Nat. Gas Co.* v. *FPC,* 257 F.2d 634, 639 (D.C. Cir. 1958) (''The granting or denial of a certificate of public convenience and necessity is a matter peculiarly within the discretion of the Commission.'').

[11] *Cf. ICC* v. *Parker,* 326 U.S. 60, 65 (1945) (''Public convenience and necessity is not defined by the statute. The nouns in the phrase possess connotations which have evolved from the half-century experience of government in the regulation of transportation.''); *see generally* S. Rep. No. 75–1162 at 5 (1937) (recognizing similarities in the provisions requiring certificates for public convenience and necessity under the other statutes, *e.g.,* the Interstate Commerce Act).

[12] 15 U.S.C. 717f(e).

[13] *Envtl. Def. Fund* v. *FERC,* 2 F.4th 953, 975 (D.C. Cir. 2021) (internal quotation marks omitted).

[14] Updated Policy Statement, 178 FERC ¶ 61,107 at P 4 n.6 (quoting *Atl. Ref. Co.* v. *Pub. Serv. Comm'n of N.Y.,* 360 U.S. 378, 391 (1959)).

[15] *NAACP,* 425 U.S. at 669.

[16] *Id.* at 669–70; *accord Myersville,* 783 F.3d at 1307 (quoting *NAACP,* 425 U.S. at 669–70). I note that the Supreme Court has also recognized the Commission has authority to consider ''other subsidiary purposes,'' such as ''conservation, environmental, and antitrust questions.'' *NAACP,* 425 U.S. at 670 & n.6 (citations omitted). But all subsidiary purposes are, necessarily, subordinate to the statute's primary purpose.

certificates of public convenience and necessity for service of an area already being served by another natural-gas company.'' [17] Therefore, the Commission is not barred from finding a proposed project required by the public convenience and necessity when it is in an area that is already served by another company.[18]

6. Another consideration relevant to the Commission's evaluation of the public interest is our jurisdiction and, specifically, which areas of regulation Congress identified as being reserved to states—and thus outside of our jurisdiction. NGA section 1(b) sets forth that division of jurisdiction, providing that,

> [t]he provisions of [the NGA] shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation, but *shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.*[19]

The Commission's authority therefore extends to: (1) The ''transportation of natural gas in interstate commerce,'' (2) the ''sale in interstate commerce of natural gas for resale,'' and (3) ''natural-gas companies engaged in such transportation or sale.'' [20] Exempted from our jurisdiction are production, gathering and local distribution.[21] From these exemptions, it may be gleaned that the Commission does not have jurisdiction over the ''gas once it moves beyond the high-pressure mains into the hands of an end user.'' [22] Another exemption from federal regulation is contained in NGA section 1(c), which states:

> The provisions of this chapter shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission.[23]

By declaring the foregoing exemptions from federal regulation, Congress has carefully delineated the limits of the Commission's jurisdiction.[24]

7. These limits on the Commission's jurisdiction are not extended by the National Environmental Policy Act (NEPA).[25] In fact, NEPA cannot extend our jurisdiction because NEPA is not a means of ''mandating that agencies achieve particular substantive environmental results''; [26] rather, it serves to ''impose[ ] only procedural requirements on federal agencies with a particular focus on requiring agencies to undertake analyses of the environmental impact of their proposals and actions.'' [27] Indeed, ''NEPA not only does not require agencies to discuss any particular mitigation plans that they might put in place, it does not require agencies—or third parties—to effect any.'' [28] It is necessary to acknowledge the limited, procedural nature of NEPA's requirements since it almost appears as though some of my colleagues have become convinced that it is necessary to ensure that environmental impacts are mitigated before one can make a finding that a proposed project is required by the public convenience and necessity.[29] Neither NEPA nor the NGA establishes such a requirement.

8. And, any attempt to justify such action through the Commission's conditioning authority is unsupported.[30] Under its conditioning authority, ''[t]he Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require.'' [31] But the Commission's conditioning authority cannot be used to impose conditions beyond the Commission's jurisdiction.[32] Nor can the Commission find support under NEPA for its expectation that applicants propose mitigation measures in order for a project to be deemed required by the public convenience and necessity.[33]

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[17] 15 U.S.C. 717f(g).

[18] *See Panhandle E. Pipe Line Co.* v. *FPC,* 169 F.2d 881, 884 (D.C. Cir. 1948) (''[N]othing in the Natural Gas Act suggests that Congress thought monopoly better than competition or one source of supply better than two, or intended for any reason to give an existing supplier of natural gas for distribution in a particular community the privilege of furnishing an increased supply.'').

[19] 15 U.S.C. 717(b) (emphasis added).

[20] *Id.*

[21] *See id.*

[22] *Pub. Utils. Comm'n of Cal.* v. *FERC,* 900 F.2d 269, 277 (D.C. Cir. 1990).

[23] 15 U.S.C. 717(c).

[24] *See FPC* v. *Transcon. Gas Pipe Line Corp.,* 365 U.S. 1, 8 (1961) (*Transco*) (''Congress, in enacting the Natural Gas Act, did not give the Commission comprehensive powers over every incident of gas production, transportation, and sale. Rather, Congress was 'meticulous' only to invest the Commission with authority over certain aspects of this field leaving the residue for State regulation.'') (citation omitted); *see also FPC* v. *Panhandle E. Pipe Line Co.* 337 U.S. 498, 502–03 (1949) (''[S]uffice it to say that the Natural Gas Act did not envisage federal regulation of the entire natural-gas field to the limit of constitutional power. Rather it contemplated the exercise of federal power as specified in the Act, particularly in that interstate segment which the states were powerless to regulate because of the Commerce Clause of the Federal Constitution.'') (footnote omitted).

[25] *See Nat. Res. Def. Council, Inc.* v. *EPA,* 822 F.2d 104, 129 (D.C. Cir. 1987) (''NEPA, as a procedural device, does not work a broadening of the agency's substantive powers.'') (citations omitted); *Cape May Greene, Inc.* v. *Warren,* 698 F.2d 179, 188 (3d Cir. 1983) (''The National Environmental Policy Act does not expand the jurisdiction of an agency beyond that set forth in its organic statute.'') (citations omitted); *Gage* v. *U.S. Atomic Energy Comm'n,* 479 F.2d 1214, 1220 n.19 (D.C. Cir. 1973) (''NEPA does not mandate action which goes beyond the agency's organic jurisdiction.'') (citation omitted).

[26] *Marsh* v. *Or. Nat. Res. Council,* 490 U.S. 360, 371 (1989); *accord Robertson* v. *Methow Valley Citizens Council,* 490 U.S. 332, 350 (1989) (*Methow Valley*) (''[I]t is now well settled that NEPA itself does not mandate particular results, but simply prescribes the necessary process.''); *see also Baltimore Gas & Elec. Co.* v. *Nat. Res. Def. Council, Inc.,* 462 U.S. 87, 97 (1983) (''Congress in enacting NEPA . . . did not require agencies to elevate environmental concerns over other appropriate considerations.'').

[27] *Dep't of Transp.* v. *Pub. Citizen,* 541 U.S. 752, 756–57 (2004) (citation omitted); *accord Winter* v. *Nat. Res. Def. Council, Inc.,* 555 U.S. 7, 23 (2008) (''NEPA imposes only procedural requirements to 'ensur[e] that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.' '') (quoting *Methow Valley,* 490 U.S. at 349); *see also Vt. Yankee Nuclear Power Corp.* v. *Nat. Res. Def. Council, Inc.,* 435 U.S. 519, 558 (1978) (''NEPA does set forth significant substantive goals for the Nation, but its mandate to the agencies is essentially procedural.'') (citations omitted).

[28] *Citizens Against Burlington, Inc.* v. *Busey,* 938 F.2d 190, 206 (D.C. Cir. 1991) (citing *Methow Valley,* 490 U.S. at 353 & n.16).

[29] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 74 (''We will consider environmental impacts and potential mitigation in both our environmental reviews under NEPA and our public interest determinations under the NGA. The Commission expects applicants to structure their projects to avoid, or minimize, potential adverse environmental impacts.''); *id.* (''Should we deem an applicant's proposed mitigation of impacts inadequate to enable us to reach a public interest determination, we may condition the certificate to require additional mitigation.''); *id.* P 79 (''[W]e clarify that our consideration of impacts to communities surrounding a proposed project will include an assessment of impacts to any environmental justice communities and of necessary mitigation to avoid or lessen those impacts.'').

[30] *But see id.* P 74 (concluding because the Commission's conditioning authority is broad, if the Commission determines that the applicant's proposed mitigation of impacts are inadequate, the Commission has the authority to condition the certificate to require additional mitigation).

[31] 15 U.S.C. 717f(e).

[32] *See Richmond Power & Light of City of Richmond, Ind.* v. *FERC,* 574 F.2d 610, 620 (D.C. Cir. 1978) (''What the Commission is prohibited from doing directly it may not achieve by indirection.'') (footnote omitted).

[33] *See Methow Valley,* 490 U.S. at 352–53 (''There is a fundamental distinction, however, between a requirement that mitigation be discussed in

II. A Number of the Changes to the Certificate Policy Statement Are Misguided

• *Changes in the Commission's Need Determination*

9. In the Original Policy Statement, the Commission stated that, in evaluating the need for a project, it would:

> consider all relevant factors reflecting on the need for the project. These might include, but would not be limited to, precedent agreements, demand projections, potential cost savings to consumers, or a comparison of projected demand with the amount of capacity currently serving the market. The objective would be for the applicant to make a sufficient showing of the public benefits of its proposed project to outweigh any residual adverse effects discussed below.[34]

Although the Commission stated in its Original Policy Statement that it would consider other factors, the Commission has also ''explained that the [Original] Policy Statement does not require a certain percentage of a proposed project's capacity be subscribed, and that with respect to affiliate shippers, 'it is . . . Commission policy to not look beyond precedent or service agreements to make judgments about the needs of individual shippers.' '' [35]

10. In the Updated Policy Statement, the Commission now is revising how it determines need. The Updated Policy Statement explains that ''[i]n determining whether to issue a certificate of public convenience and necessity, the Commission will weigh the public benefits of a proposal, *the most important of which is the need that will be served by the project,* against its adverse impacts.'' [36] The Commission acknowledges that its prior reliance on precedent agreements to determine need has been upheld by courts,[37] but then proclaims that ''we cannot adequately assess project need without also looking at evidence beyond precedent agreements.'' [38] An expectation is then established that applicants continue to provide precedent agreements but ''the existence of precedent agreements may not be sufficient in and of themselves to establish need for the project.'' [39]

11. The Commission underscores what it views as necessary for the Commission to determine need for all categories of proposed projects: ''specific information detailing how the gas to be transported by the proposed project will ultimately be used,'' *i.e.,* the end use and, ''why the project is needed to serve that use.'' [40] And if the applicant does not have information regarding the intended end use? Applicants are ''encouraged'' to turn to their shippers to obtain it.[41] In the absence of such information, the Commission suggests that the applicant may not satisfy its burden to demonstrate need for the proposed project.[42] The projected end use and an explanation of the reasons *why* the project is needed to serve that use are not the only information the Commission requests—''[f]or all categories of proposed projects,'' the majority also ''encourage[s] applicants to provide specific information detailing . . . the expected utilization rate of the proposed project.'' [43] The majority also suggests types of ''evidence'' for various categories of projects.[44]

12. And when precedent agreements are with an affiliate of the applicant, the majority states that those precedent agreements, will generally not be sufficient to demonstrate need.[45]

13. I agree that, as a legal matter, the Commission may take into account considerations other than precedent agreements in its need determination. I also agree that there may be circumstances—such as when there is evidence of self-dealing in the execution of a precedent agreement with an affiliated shipper—where ''the existence of precedent agreements may not be sufficient in and of themselves to establish need for the project.'' [46]

14. To the extent, however, that today's order suggests that the Commission must look beyond precedent agreements in every circumstance to determine need, I disagree. In my view, precedent agreements are strong evidence of need and the Commission need not look further in most circumstances. As my colleagues acknowledge, courts have upheld on numerous occasions the Commission's application of its Original Policy Statement and the Commission's reliance on precedent agreements to support multiple findings of market need.[47]

15. In terms of precedent agreements with affiliates, the Commission recently received guidance in the form of the narrow holding in *Environmental Defense Fund* v. *FERC.*[48] There, the court found the Commission's public convenience and necessity determination to be arbitrary and capricious due to the Commission's

> rel[iance] solely on a precedent agreement to establish market need for a proposed pipeline when (1) there was a single precedent agreement for the pipeline; (2) that precedent agreement was with an affiliated shipper; (3) all parties agreed that projected demand for natural gas in the area to be served by the

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sufficient detail to ensure that environmental consequences have been fairly evaluated, on the one hand, and a substantive requirement that a complete mitigation plan be actually formulated and adopted, on the other. . . . Even more significantly, it would be inconsistent with NEPA's reliance on procedural mechanisms—as opposed to substantive, result-based standards—to demand the presence of a fully developed plan that will mitigate environmental harm before an agency can act.'') (citing *Baltimore Gas & Elec. Co.,* 462 U.S. at 100 (''NEPA does not require agencies to adopt any particular internal decisionmaking structure'')).

[34] Original Policy Statement, 88 FERC ¶ 61,227 at 61,747.

[35] *NEXUS Gas Transmission, LLC,* 172 FERC ¶ 61,199, at P 5 (2020) (citation omitted).

[36] Updated Policy Statement, 178 FERC ¶ 61,107 at P 52 (emphasis added).

[37] *See id.* P 54 (citing *Minisink Residents for Envtl. Pres. & Safety* v. *FERC,* 762 F.3d 97, 110 n.10 (D.C. Cir. 2014) (noting that the 1999 Policy Statement ''permits'' but does not ''require[ ]'' the Commission to ''look[ ] beyond the market need reflected by the applicant's existing contracts with shippers'')).

[38] *Id.*

[39] *Id.* P 54 (listing other considerations that it views as relevant to a need determination, including whether the agreements were entered into before or after an open season, the results of the open season, the number of bidders, whether the agreements were entered into in response to a local distribution company or generator request for proposals (RFP), the details of any such RFP process, demand projections underlying the capacity subscribed, estimated capacity utilization rates, potential cost savings to customers, regional assessments, and filings or statements from State regulatory commissions or local distribution companies regarding the proposed project).

[40] *Id.* P 55.

[41] *Id.*

[42] *See id.*

[43] *Id.*

[44] *See id.* PP 55–59.

[45] *Id.* P 60.

[46] *Id.* P 54. I am generally skeptical of affiliate transactions and think that in most circumstances, the Commission should scrutinize agreements with an affiliate. As I have previously explained, I agree with the U.S. Court of Appeals for District of Columbia Circuit's decision to remand the Commission's orders and the court's explanation for doing so in *Environmental Defense Fund* v. *FERC,* 2 F.4th 953. *See Spire STL Pipeline LLC,* 176 FERC ¶ 61,160 (2021) (Danly, Comm'r, dissenting at P 9).

[47] *See, e.g., City of Oberlin, Ohio* v. *FERC,* 937 F.3d 599, 606 (D.C. Cir. 2019) (''[T]his Court has also recognized that 'it is Commission policy to not look behind precedent or service agreements to make judgments about the needs of individual shippers.' '') (citation omitted); *Minisink Residents for Envtl. Pres. & Safety* v. *FERC,* 762 F.3d at 111 (''Petitioners identify nothing in the policy statement or in any precedent construing it to suggest that it requires, rather than permits, the Commission to assess a project's benefits by looking beyond the market need reflected by the applicant's existing contracts with shippers. To the contrary, the policy statement specifically recognizes that such agreements 'always will be important evidence of demand for a project.' '') (quoting Original Policy Statement, 88 FERC ¶ 61,227 at 61,748); *see also Myersville Citizens for a Rural Cmty., Inc.* v. *FERC,* 783 F.3d 1301, 1311 (D.C. Cir. 2015) (explaining that ''[f]or a variety of reasons related to the nature of the market, 'it is Commission policy to not look behind precedent or service agreements to make judgments about the needs of individual shippers.' . . . In keeping with its policy, the Commission concluded that the evidence that the Project was fully subscribed was adequate to support the finding of market need.'') (citation omitted).

[48] *Envtl. Def. Fund* v. *FERC,* 2 F.4th 953.

new pipeline was flat for the foreseeable future; and (4) the Commission neglected to make a finding as to whether the construction of the proposed pipeline would result in cost savings or otherwise represented a more economical alternative to existing pipelines.[49]

That case does not stand for the proposition that in every circumstance, the Commission must always look beyond the precedent agreements. Instead, that case should be read as a failure on the part of the Commission to engage in reasoned decision making based on the facts presented.

16. Next, I disagree with the majority's position that the Commission should weigh end use in its determination of need. I agree with Enbridge Gas Pipeline that ''[p]rioritizing certain end uses in determining project need would be inconsistent with the Commission's policies of open access, open seasons and awarding capacity to those that value the capacity the most.'' [50] More importantly, the Commission does not have jurisdiction over the end use of the gas and has been purposefully deprived of its upstream and downstream authorities by Congress. The breadth of the subject matters that inform our public interest determinations must be informed by the limits of our jurisdiction.

17. I recognize that in *Transco* the Supreme Court stated that '' 'end-use' . . . was properly of concern to the Commission.'' [51] As commenters observe,[52] however, the *Transco* decision was made prior to Congress' enactment of the Natural Gas Policy Act of 1978 (NGPA) [53] and the Natural Gas Wellhead Decontrol Act of 1989 (Wellhead Decontrol Act).[54] These later enactments are instructive as to whether the Commission should consider end use as part of its public convenience and necessity determination.

18. The NGPA ''was designed to phase out regulation of wellhead prices charged by producers of natural gas, . . . to 'promote gas transportation by interstate and intrastate pipelines' for third parties'' [55] and also ''to provide investors with adequate incentives to develop new sources of supply.'' [56] Later, the enactment of the Wellhead Decontrol Act resulted in deregulating upstream natural gas production, and the legislative history suggests the enactment would serve to encourage competition of natural gas at the wellhead.[57] In combination, these acts effectively deprived the Commission of authority upstream of the jurisdictional pipeline.

19. In 1987, Congress repealed sections of the Power Plant and Industrial Fuel Use Act of 1978 (Fuel Use Act), further deregulating downstream considerations. My former colleague, Commissioner McNamee previously explained that the Fuel Use Act had ''restricted the use of natural gas in electric generation so as to conserve it for other uses'' and ''[w]ith the repeal of the Fuel Use Act, Congress made clear that natural gas could be used for electric generation and that the regulation of the use of natural gas by power plants unnecessary.'' [58] A House report stated:

> By amending [the Fuel Use Act], H.R. 1941 will remove artificial government restrictions on the use of oil and gas; allow energy consumers to make their own fuel choices in an increasingly deregulated energy marketplace; encourage multifuel competition among oil, gas, coal, and other fuels based on their price, availability, and environmental merits; preserve the 'coal option' for new baseload electric powerplants which are long-lived and use so much fuel; and provide potential new markets for financially distressed domestic oil and gas producers.[59]

These later, deregulatory enactments were not at play in *Transco.* And I agree that ''the current framework requires equal access to a plentiful gas supply for all buyers and sellers.'' [60] Taking the foregoing into account, I am not convinced that the Commission has authority to deny a certificate of public convenience and necessity on the basis of end use, and the Commission should not consider end use in its need determination.

b. Consideration of Adverse Effects

20. The Commission explains in its Updated Policy Statement that it will consider four categories of adverse impacts from the construction and operation of new projects: (1) The interests of the applicant's existing customers; (2) the interests of existing pipelines and their captive customers; (3) environmental interests; and (4) the interests of landowners and surrounding communities, including environmental justice communities.[61] The Commission also states that it may deny an application based on any of the foregoing types of adverse impacts.[62] Further, the Commission will ''consider environmental impacts *and potential mitigation* in both our environmental reviews under NEPA and our public interest determinations under the NGA.'' [63] And the Commission ''expects applicants to structure their projects to avoid, or minimize, potential adverse environmental impacts.'' [64]

21. First, regarding the interests of the applicant's existing customers, the Commission announces that while our

[49] *Id.* at 976.

[50] Enbridge Gas Pipelines May 26, 2021 Comments at 42. ''[U]nder the Commission's open-access regulatory regime, pipelines must provide transportation service without 'undue discrimination or preference of any kind.' '' *NEXUS Gas Transmission, LLC,* 172 FERC ¶ 61,199, at P 17 (2020) (quoting 18 CFR 284.7(b)). The Commission's new consideration of the intended end use of the gas and why the gas is needed to serve that use may also cause tension with NGA section 4. Updated Policy Statement, 178 FERC ¶ 61,107 at P 52. NGA section 4(b) states that ''[n]o natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.'' 15 U.S.C. 717c(b).

[51] *Transco,* 365 U.S. at 22.

[52] *See, e.g.,* TC Energy Corporation May 26, 2021 Comments at 12–13 (explaining that after the Supreme Court's *Transco* decision ''was issued in 1961, Congress passed the NGPA, the Wellhead Decontrol Act, EPAct 1992, and the Commission issued Orders Nos. 636 and 637. These statutes and regulatory orders fundamentally altered the natural gas markets by acting to facilitate the development of competitive natural gas markets served by competitive interstate natural gas transportation.''); *id.* (''Under the current regulatory framework, there is no basis for the Commission to deny a certificate application based on end use, because the current framework requires equal access to a plentiful gas supply for all buyers and sellers. The end use of natural gas is outside the objectives of the current statutory framework, and the Commission should not take end use into consideration when assessing the public need for a pipeline project under the NGA.''); Boardwalk Pipeline Partners, LP May 26, 2021 Comments at 34 (''*FPC* v. *Transco* was decided prior to the NGPA's and Wellhead Decontrol Act's creation of a competitive natural gas market that allows all consumers to benefit from the United States' plentiful gas supplies . . . . [G]iven all of the changes that have occurred over the past 60 years'' and ''[u]nder the current open-access regime, there is no legal basis for the Commission to deny a certificate application based on end use.'') (emphasis omitted).

[53] 15 U.S.C. 3301–3432.

[54] Natural Gas Wellhead Decontrol Act of 1989, Public Law 101–60, 103 Stat. 157 (1989).

[55] *Gen. Motors Corp.* v. *Tracy,* 519 U.S. 278, 283 (1997) (quoting 57 FR 13271 (1992)).

[56] *Pub. Serv. Comm'n of State of N.Y.* v. *Mid-Louisiana Gas Co.,* 463 U.S. 319, 334 (1983).

[57] *See* S. Rep. No. 101–39, at 1 (1989) (''[T]he purpose . . . is to promote competition for natural gas at the wellhead in order to ensure consumers an adequate and reliable supply of natural gas at the lowest reasonable price.''); H.R. Rep. No. 101–29, at 6 (1989) (''All sellers must be able to reasonably reach the highest-bidding buyer in an increasingly national market. All buyers must be free to reach the lowest-selling producer, and obtain shipment of its gas to them on even terms with other supplies.'').

[58] *Adelphia Gateway, LLC,* 169 FERC ¶ 61,220 (2019) (McNamee, Comm'r, concurring at P 36).

[59] H.R. Rep. 100–78, at 2 (1987).

[60] TC Energy Corporation May 26, 2021 Comments at 13.

[61] Updated Policy Statement, 178 FERC ¶ 61,107 at P 62.

[62] *Id.*

[63] *Id.* P 74 (emphasis added).

[64] *Id.*

policy of no financial subsidies remains unchanged, the Commission will no longer treat this as a threshold requirement.[65] This reprioritization is fine; it is merely a policy choice with no obvious legal infirmity.

22. Next, the Commission turns to its considerations of existing pipelines and their customers with an emphasis on the prevention of overbuilding. In an order clarifying the Original Policy Statement, the Commission discussed the consideration of overbuilding and explained that ''[s]ending the wrong price signals to the market can lead to inefficient investment and contracting decisions which can cause pipelines to build capacity for which there is not a demonstrated market need,'' and that ''[s]uch overbuilding, in turn, can exacerbate adverse environmental impacts, distort competition between pipelines for new customers, and financially penalize existing customers of expanding pipelines and customers of the pipelines affected by the expansion.'' [66] I agree that the concern of overbuilding is worthy of consideration in the Commission's balancing and consistent with the purpose of ''encourag[ing] the *orderly development* of plentiful supplies of . . . natural gas at reasonable prices.'' [67]

23. The Commission also states that ''[t]o the extent that a proposed project is designed to substantially serve demand already being met on existing pipelines, that could be an indication of potential overbuilding.'' [68] In my view, the Commission should weigh this consideration with NGA section 7(g) in mind, which provides that ''[n]othing contained in [NGA section 7] shall be construed as a limitation upon the power of the Commission to grant certificates of public convenience and necessity for service of an area already being served by another natural-gas company.'' [69] In considering whether a proposed project is designed to substantially serve demand that is already met, the Commission should also consider whether the proposed project would allow for further competition, send appropriate price signals and improve the efficiency or reliability of service to existing customers. This is worth noting because of the statement in today's order that states that ''[t]he Commission may deny an application based on *any* of these types of adverse impacts,'' [70] including impacts to existing pipelines and their customers.

24. Third, the majority addresses environmental impacts, stating: ''While the 1999 Policy Statement focused on economic impacts, the consideration of environmental impacts is an important part of the Commission's responsibility under the NGA to evaluate all factors bearing on the public interest.'' [71] As explained by the majority, the Original Policy Statement ''included an analytical framework for how the Commission would evaluate the effects of certificating new projects on economic interests,'' and it ''did not describe how the Commission would consider environmental interests in its decision-making process and, more specifically, how it would balance these interests with the economic interests of a project.'' [72] The Commission now adjusts that framework to include environmental impacts as a consideration in its Updated Policy Statement.

25. The Commission explains that it will consider environmental impacts and potential mitigation in both our environmental reviews under NEPA and our public interest determinations under the NGA.[73] The majority ''expect[s] applicants to propose measures for mitigating impacts,'' for consideration in the Commission's balancing of adverse impacts against the potential benefits of a proposal.[74] The Commission may condition the certificate with further mitigation.[75] Moreover, the Commission states that it may ''deny an application based on . . . environmental impacts, if the adverse impacts as a whole outweigh the benefits of the project and cannot be mitigated or minimized.'' [76] Finally, the majority indicates its intent when making its public convenience and necessity determination to fully consider climate impacts.[77]

26. I discuss the reasons why I disagree with the majority's Interim GHG Policy Statement in my dissent to that order.[78] In terms of the change from an economic focus in the Original Policy Statement, my view is that the Commission should retain its economic framework as the basis of its policy statement. I am concerned that several of the changes made in today's Updated Policy Statement include issues outside the scope of that which the Commission is able to consider under the NGA. Though time has passed since the NGA's enactment, it is Congress' role to amend the statute should it see fit to include in the Commission's authority matters such as the conditioning of certificates to mitigate GHG emissions. Congress has done so before and could do so again.[79] To restate the approach that should be taken to determine the public convenience and necessity: Any balancing under that standard must ''take meaning'' from the interests articulated in the NGA.

27. Although courts have recognized that the Commission's NGA section 7(e) ''conditioning authority is 'extremely broad,' '' [80] such authority is not without limit. ''The Commission may not, however, when it lacks the power to promote the public interest directly, do so indirectly by attaching a condition to a certificate that is, in unconditional form, already in the public convenience and necessity.'' [81] There have been circumstances where the courts have found the Commission exceeded its conditioning authority.[82] Its use must be

[65] *Id.* P 63.

[66] *Certification of New Interstate Nat. Gas Pipeline Facilities,* 90 FERC ¶ 61,128, at 61,391.

[67] *NAACP,* 425 U.S. at 670 (emphasis added).

[68] Updated Policy Statement, 178 FERC ¶ 61,107 at P 69.

[69] 15 U.S.C. 717f(g).

[70] Updated Policy Statement, 178 FERC ¶ 61,107 at P 62 (emphasis added); *see also id.* P 99 (''[T]here may be proposals denied solely on the magnitude of a particular adverse impact to any of the four interests described above if the adverse impacts, as a whole, outweigh the benefits of the project and cannot be mitigated or minimized.'').

[71] *Id.* P 72 (citation omitted).

[72] *Id.* P 71.

[73] *Id.* P 74.

[74] *Id.*

[75] *Id.*

[76] *Id.*

[77] *Id.* P 76.

[78] *See* Interim GHG Policy Statement, 178 FERC ¶ 61,108 (Danly, Comm'r, dissenting).

[79] *See Whitman* v. *Am. Trucking Ass'ns, Inc.,* 531 U.S. 457, 468 (2001) (''Congress, we have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.'') (citations omitted).

[80] *ANR Pipeline Co.* v. *FERC,* 876 F.2d 124, 129 (D.C. Cir. 1989) (citation omitted).

[81] *Nat'l Fuel Gas Supply Corp.* v. *FERC,* 909 F.2d 1519, 1522 (D.C. Cir. 1990) (citing *Sunray Mid-Continent Oil Co.* v. *FPC,* 364 U.S. 137, 152 (1960) (''once want of power to do this directly were established, the existence of power to achieve the same end indirectly through the conditioning power might well be doubted''); *Richmond Power & Light* v. *FERC,* 574 F.2d 610, 620 (D.C. Cir. 1978) (the Commission may not achieve indirectly through conditioning power of Federal Power Act what it is otherwise prohibited from achieving directly)); *see also Am. Gas Ass'n* v. *FERC,* 912 F.2d 1496, 1510 (D.C. Cir. 1990) (''[T]he Commission may not use its section 7 conditioning power to do indirectly . . . things that it cannot do at all.'').

[82] *See, e.g., Nat'l Fuel Gas Supply Corp.* v. *FERC,* 909 F.2d at 1520, 1522 (D.C. Cir. 1990) (finding that the Commission exceeded the scope of its NGA section 7(e) authority in conditioning the approval of an off-system sales certificate upon certificate holder's acceptance of a blanket transportation certificate because ''the Commission squarely found that National's proposed 'sales are required by the public convenience and necessity,' quite apart from conditioning their certification upon the pipeline's filing for a blanket transportation certificate.''); *N. Nat. Gas Co., Div. of InterNorth* v. *FERC,* 827 F.2d 779, 792–93 (D.C. Cir. 1987) (granting rehearing en banc, reaffirming the holding in *Panhandle E. Pipe Line Co.* v. *FERC,* 613 F.2d 1120, 1133 (D.C. Cir.

Continued

consistent with the other provisions of the NGA and the Commission may not use conditions under the guise of acting in the public interest in order to do something it would otherwise not have authority to do.

28. There are also practical considerations in the Commission finding in today's policy statement that ''[s]hould [the Commission] deem an applicant's proposed mitigation of impacts inadequate to enable us to reach a public interest determination, we may condition the certificate to require additional mitigation.'' [83] The costs that attend the proposed mitigation of GHG emissions may be unmeasurable, may not be readily apparent, and may also be more than the natural gas companies and its shippers are willing or able to bear. There will perhaps be difficulty in measuring the costs of conditions, such as market-based mitigation,[84] when the costs are determined based on a changing market. For instance, the cost of purchasing renewable energy credits may be different at the time an application is filed in comparison to when the certificate is issued. And there is no guarantee that the potentially extraordinary costs incurred by a pipeline to comply with the Commission's public interest determination will be recovered in the pipeline's rates.[85] These practical considerations have not been taken into account by the Commission. Without these considerations, I am not convinced that the Commission has engaged in reasoned decision making.

29. Turning to the Commission's consideration of impacts on landowners and surrounding communities, as the majority recognizes, the Original Policy Statement's primary focus was on economic impacts associated with a permanent right-of-way on a landowner's property.[86] Going forward, the consideration ''of impacts to landowners will be more expansive.'' [87] The majority clarifies that the ''consideration of impacts to communities surrounding a proposed project will include an assessment of impacts to any environmental justice communities and of necessary mitigation to avoid or lessen those impacts.'' [88] And ''expectations'' are established ''for how pipeline applicants will engage with landowners.'' [89]

30. The majority also commits itself to ''robust early engagement with all interested landowners, as well as continued evaluation of input from such parties during the course of any given proceeding'' and states that the Commission ''will, to the extent possible, assess a wider range of landowner impacts.'' [90] Further, the majority states that it ''expect[s] pipeline applicants to take all appropriate steps to minimize the future need to use eminent domain,'' including ''engage[ment] with the public and interested stakeholders during the planning phase of projects to solicit input on route concerns and incorporate reroutes, where practicable, to address landowner concerns, as well as providing landowners with all necessary information.'' [91]

31. The majority states that it ''expect[s] pipelines to take seriously their obligation to attempt to negotiate easements respectfully and in good faith with impacted landowners'' and indicates that ''[t]he Commission will look unfavorably on applicants that do not work proactively with landowners to address concerns.'' [92] Does this mean that the majority plans to weigh, in its balancing of interests, allegations concerning whether the applicant has engaged in good faith negotiation of easements and collaboration with landowners to address concerns? It appears so. The Commission later states that ''[i]n assessing potential impacts to landowners, the Commission will consider the steps a pipeline applicant has already taken to acquire lands through respectful and good faith negotiation, as well as the applicant's plans to minimize the use of eminent domain upon receiving a certificate.'' [93]

32. It is worth reminding my colleagues that on the very same meeting that this order is issued, the Commission also issues an order [94] that reaffirms a decision to deny landowners' request for the Commission to interpret the scope of NGA section 7(h) because, in my colleagues' view, NGA section 7(h) is ''a provision that gives courts a particular implementing role'' and therefore ''is better resolved by the courts than the Commission.'' [95] And yet here, the Commission contemplates considering in its balancing whether applicants have engaged in good faith negotiations for easements pursuant to NGA section 7(h).

33. Finally, the Commission discusses how it will consider impacts to environmental justice communities. In explaining its objectives, the majority states that ''[t]he consideration of cumulative impacts is particularly important when it comes to conducting an environmental justice analysis.'' [96] In support, the Commission has the following footnote:

> '' 'Cumulative impact' is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.'' 40 CFR 1508.7 (1978).[97]

34. There is no problem with announcing the paradigm by which a particular type of analysis will be conducted, but this looks very much as though my colleagues have decided that they can disregard currently-effective regulations and adopt their own definition of the ''effects'' that should be considered in the Commission's

1979), which provides ''that 'the Commission does not have authority under section 7 to compel flow-through of revenues to customers of services not under consideration in that proceeding for certification,' '' and vacating a condition that violates that holding).

[83] Updated Policy Statement, 178 FERC ¶ 61,107 at P 74.

[84] *See* Interim GHG Policy Statement, 178 FERC ¶ 61,108 at PP 114–115 (encouraging project sponsors to propose mitigation measures, stating that project sponsors ''are free to propose any type of mitigation mechanism,'' and providing the following examples of market-based mitigation: ''[the] purchase [of] renewable energy credits, participat[ion] in a mandatory compliance market (if located in a State that requires participation in such a market), or participat[ion] in a voluntary carbon market'').

[85] *See id.* P 129 (''Pipelines may seek to recover GHG emissions mitigation costs through their rates, similarly to how they seek to recover other costs associated with constructing and operating a project, such as the cost of other construction mitigation requirements or the cost of fuel. Additionally, the Commission's process for section 7 and section 4 rate cases is designed to protect shippers from unjust or unreasonable rates and will continue to do so with respect to the recovery of costs for mitigation measures.'').

[86] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 78 (citing Original Policy Statement, 88 FERC ¶ 61,227 at 61,749 (''The balancing of interests and benefits that will precede the environmental analysis will largely focus on economic interests such as the property rights of landowners.''))

[87] *Id.*

[88] *Id.* P 79.

[89] *Id.* P 80.

[90] *Id.* P 81.

[91] *Id.* P 82.

[92] *Id.*

[93] *Id.* P 85.

[94] *See Spire STL Pipeline LLC,* 178 FERC ¶ 61,109 at P 10 (2022) (citation omitted).

[95] *Spire STL Pipeline LLC,* 177 FERC ¶ 61,147, at P 70 (2021) (citation omitted); *see id.* (Danly, Comm'r, concurring in part and dissenting in part) (disagreeing with the Commission's decision to not interpret NGA section 7(h) in the first instance and to leave the interpretation to the courts).

[96] Updated Policy Statement, 178 FERC ¶ 61,107 P 90 (relying on a repealed definition for ''cumulative impacts,'' formerly 40 CFR 1508.7 (1978), in the Council on Environmental Quality's (CEQ) regulations) (citations omitted).

[97] *Id.* P 90 n.213.

analysis.[98] The *current* NEPA regulations repealed the definition of ''Cumulative impact'' previously contained in 40 CFR 1508.7.[99] The Commission, in attempting to go farther than the CEQ's regulations, reasons that ''[t]o adequately capture the effects of cumulative impacts, it is essential that the Commission consider those pre-existing conditions and how the adverse impacts of a proposed project may interact with and potentially exacerbate them.'' [100]

35. I disagree with the Commission's decision to disregard CEQ's regulations.[101] The Commission, in its *own* regulations, states that it ''will comply with the regulations of the [CEQ] except where those regulations are inconsistent with the statutory requirements of the Commission.'' [102] Regardless of the latitude the majority thinks we may enjoy when conducting our analyses, it is a matter of black letter law that we are constrained by our regulations which adopt CEQ's regulations; we are also unable to conjure rubrics out of thin air without explanation.

III. The Commission's Approach of ''Expecting'' Self-Imposed Mitigation Appears Calculated To Circumvent Statutory Limits on the Commission's Authority

36. In the Updated Policy Statement, as well as in the Interim GHG Policy Statement, the Commission has asserted a dramatic expansion of its conditioning authority. As explained above, the Commission likely does not have the statutory authority to enter this new territory. It is not surprising, therefore, to see a consistent theme in the Updated Policy Statement that the Commission has expectations of applicants.[103] The Commission *expects* more of applicants going forward. Should those expectations not be met to the Commission's satisfaction, the Commission suggests that it will weigh that against finding that the project is required by the public convenience and necessity.[104]

37. Instead of saying that it is imposing or requiring the legally dubious conditions itself, the Commission is *expecting* the natural gas companies to play a game of ''sentence first—verdict afterwards,'' [105] where the applicants choose their own sentence—their proposed mitigation measures—in an effort to guess at the Commission's expectations. Only then will the Commission rule on whether the project is required by the public convenience and necessity and reveal whether the proposed mitigation is sufficient.

38. It works in the Commission's favor for applicants to impose their own mitigation measures. If the applicant proposes the mitigation instead of having it imposed by the Commission, it is less likely that a court would deem such condition unreasonable or beyond the Commission's authority should it come to be challenged at all.[106] How can a condition be unreasonable or beyond the Commission's jurisdiction if it is imposed at the suggestion of the applicant—the party who needs to satisfy such conditions?

IV. It Is Unclear Whether the Updated Policy Statement Is Actually Binding and Whether the Commission Should Have Proceeded Through Rulemaking

39. Whether the Commission can impose mitigation as contemplated here, or whether the Commission lacks authority to do so with its conditioning authority will ultimately be addressed by the courts. I recognize the Commission's assertion that the Updated Policy Statement is not binding.[107] I question whether that is actually the case.[108]

40. Given the non-binding designation, there may indeed be well-founded concerns by parties seeking to challenge the Updated Policy Statement.[109] But as explained above, the Commission has established its *expectations* regarding what information it wants included in certificate applications and plans to apply the Updated Policy Statement to both currently-pending [110] and future applications for a certificate of public convenience and necessity. For parties hesitant to challenge a ''non-binding'' policy statement, I submit that a court may perhaps be receptive to arguments of aggrievement based on the interests of shippers who will now likely have to renegotiate their agreements for proposed projects with currently-pending certificate applications.

41. Moreover, natural gas companies [111] and their shippers likely have not contemplated the increased costs that will come with the Commission's new policies. It is likely that companies with pending applications have not yet presented proposals for mitigation of the proposed project's GHG emissions. But the need for developing such proposals will arise—the Commission has requested that companies with pending applications supplement their

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[98] *Cf.* Updated Policy Statement, 178 FERC ¶ 61,107 at P 74 n.189 (''Recognizing that CEQ is in the process of revising its NEPA regulations, the Commission will consider the comments in this docket regarding NEPA in our future review of our regulations, procedures, and practices for implementing NEPA.)

[99] *See* 40 CFR 1508.1(g)(3) (''An agency's analysis of effects shall be consistent with this paragraph (g). Cumulative impact, defined in 40 CFR [§] 1508.7 (1978), is repealed.'').

[100] Updated Policy Statement, 178 FERC ¶ 61,107 at P 90.

[101] *See* 40 CFR 1508.1(g) (defining ''effects or impacts'').

[102] 18 CFR 380.1.

[103] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 53 (stating that ''the Commission's expectations and requirements for how applicants should demonstrate project need have evolved over time'').

[104] *See, e.g., id.* P 74 (''Should we deem an applicant's proposed mitigation of impacts inadequate to enable us to reach a public interest determination, we may condition the certificate to require additional mitigation. We may also deny an application based on any of the types of adverse impacts described herein, including environmental impacts, if the adverse impacts as a whole outweigh the benefits of the project and cannot be mitigated or minimized.''); *id.* P 82 (''[W]e expect pipelines to take seriously their obligation to attempt to negotiate easements respectfully and in good faith with impacted landowners. The Commission will look unfavorably on applicants that do not work proactively with landowners to address concerns.'').

[105] Lewis Carroll, *Alice's Adventures in Wonderland and Through the Looking-Glass* 107 (Hugh Haughton ed., Penguin Classics 1998).

[106] *See* 15 U.S.C. 717f(e) (''The Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such *reasonable terms and conditions* as the public convenience and necessity may require.'') (emphasis added).

[107] Updated Policy Statement, 178 FERC ¶ 61,107 at P 3 (stating that the Updated Policy Statement does not establish binding rules, but rather it is intended to explain how the Commission will consider NGA section 7 certificate applications).

[108] *See Interstate Nat. Gas Ass'n of Am.* v. *FERC,* 285 F.3d 18, 59 (D.C. Cir. 2002) (''The distinction between substantive rule and policy statement is said to turn largely on whether the agency position is one of 'present binding effect,' *i.e.,* whether it 'constrains the agency's discretion.' '') (citations omitted); *Brown Express, Inc.* v. *United States,* 607 F.2d 695, 701 (5th Cir. 1979) (''An announcement stating a change in the method by which an agency will grant substantive rights is not a 'general statement of policy.' '').

[109] *See Panhandle E. Pipe Line Co.* v. *FERC,* 198 F.3d 266, 270 (D.C. Cir. 1999) (denying the petition for review because ''[t]he challenged opinions [were] non-binding policy statements'' and therefore, the court found that the party petitioning for review was ''not aggrieved and has not suffered an injury-in-fact.'').

[110] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 100 (''[T]he Commission will apply the Updated Policy Statement to any currently pending applications for new certificates. Applicants will be given the opportunity to supplement the record and explain how their proposals are consistent with this Updated Policy Statement, and stakeholders will have an opportunity to respond to any such filings.'').

[111] '' 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.'' 15 U.S.C. 717a(6).

applications.[112] The resulting cost increases will, at a minimum, make these projects more expensive and thus increase pipeline rates that may ultimately be passed on to consumers. But it is entirely possible that, in at least some cases, applicants will not accept the certificate.

42. One final thought is that it may have been more appropriate for the Commission to have proceeded through rulemaking instead of through a policy statement. The Commission details the types of information that it expects to be included in applications. However, the Commission's regulations already address what the ''General content[s] of [an] application'' should include in 18 CFR 157.6(b). Nothing in that section supports the Commission's *expectation* for information regarding end use and proposals for mitigation measures.[113] Our regulations do state that ''[a]pplications under section 7 of the Natural Gas Act shall set forth all information necessary to advise the Commission fully concerning the operation, sales, service, construction, extension, or acquisition for which a certificate is requested . . . .'' [114] But nowhere do our regulations permit the Commission to add to the requirements set forth therein regarding the contents necessary for an NGA section 7(c) application. The Commission may, of course, request information from an applicant through a data request to assist with its determination of whether the project is required by the public convenience and necessity. But to *expect* (in other words require) information, such as that regarding end use and proposals for mitigation of impacts, is perhaps something that should have been done through a rulemaking. Can a party ignore the Commission's requests for additional information? Yes, but the cost would be the potential further delay to the issuance of already stalled certificates and perhaps the ultimate rejection of a proposal that fails to meet the Commission's expectations.

V. Today's Decision Will Have Profound Reliability Implications

43. I cannot overstate the implications of the Updated Policy Statement.[115] It will subvert the purpose of the NGA: To ''encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices.'' [116] Further, we leave the public and the regulated community—including investors upon whom we rely to provide billions of dollars for critical infrastructure—with profound uncertainty regarding how the Commission will determine whether a proposed project is required by the public convenience and necessity. With that uncertainty comes reliability concerns.

44. The North American Electric Reliability Corporation (NERC) recently highlighted just how important natural gas is to our electric system when it explained in its most recent Long Term Reliability Assessment that ''[n]atural gas is the reliability 'fuel that keeps the lights on,' and *natural gas policy must reflect this reality.*'' [117] Today's issuance is unlikely to allay NERC's reliability concerns. I began this statement with the consequences that could attend today's issuance of the Updated Policy Statement. As a reminder those consequences include, but are not limited to, further delay in the issuance of certificates, the incurrence of unmeasurable and unrecoverable costs that may result from the Commission's imposition of mitigation measures to address GHG and environmental justice impacts (which are now both considered in the Commission's balancing), and difficulty in securing capital for proposed projects. It is foreseeable that the result will be to cause a reliability crisis in areas that need the gas the most. This arises because of the uncertain criteria to be applied by the Commission, the delays in obtaining the Commission's approval, and the resulting increases in costs—including the cost of mitigation. Individually and collectively, these could be so severe that a natural gas company might be unable to accept the conditions of its certificate and proceed with a project that otherwise is needed to maintain reliability.

VI. Conclusion

45. Many in the industry have asked for certainty. The majority says that they have provided it.[118] Regrettably, the majority is wrong on that point, as well. The only certainty to be found in the Updated Policy Statement is that confusion will reign hereafter, at the expense of those who depend on natural gas.

For these reasons, I respectfully dissent.

James P. Danly,

Commissioner

DEPARTMENT OF ENERGY FEDERAL ENERGY REGULATORY COMMISSION

Certification of New Interstate Natural Gas Facilities

Docket No. PL18–1–000

CHRISTIE, Commissioner, *dissenting:*

1. Last year I voted to re-issue this Notice of Inquiry (NOI) for another round of comment [1] because I believed—and still do—that there are reasonable updates to the 1999 policy statement that would be worthwhile.[2] For example, I agree that precedent agreements between corporate affiliates, because of the obvious potential for self-dealing, should not, in and of themselves and without additional evidence, prove need.[3] I also believe that the Commission's procedures for guaranteeing due process to affected property owners, which, as Justice Frankfurter taught, consists of the two core elements of notice and opportunity to be heard,[4] could be strengthened.

2. Unfortunately, the new certificate policy the majority approves today [5]

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[112] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 100.

[113] *See* 18 CFR 157.6(b) (''Each application filed other than an application for permission and approval to abandon pursuant to section 7(b) shall set forth the following information . . . .'').

[114] *Id.* § 157.5(a).

[115] *Cf. MCI Telecomms. Corp.* v. *Am. Tel. & Tel. Co.,* 512 U.S. 218, 228 (1994) (''It might be good English to say that the French Revolution 'modified' the status of the French nobility—but only because there is a figure of speech called understatement and a literary device known as sarcasm.'').

[116] *NAACP,* 425 U.S. at 669–70 (citations omitted); *accord Myersville,* 783 F.3d at 1307 (quoting *NAACP,* 425 U.S. at 669–70).

[117] NERC, Long Term Reliability Assessment, at 5 (Dec. 2021), *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2021.pdf* (emphasis added).

[118] *See* Updated Policy Statement, 178 FERC ¶ 61,107 at P 51 (asserting that the Commission is ''providing more regulatory certainty in the Commission's review process and public interest determinations''); *id.* P 73 (''To provide more clarity and regulatory certainty to all participants in certificate proceedings, we explain here how the Commission will consider environmental impacts.''); *id.* P 100 (''A major purpose of this Updated Policy Statement is to provide clarity and regulatory certainty regarding the Commission's decision-making process.'').

[1] *Certification of New Interstate Natural Gas Facilities,* 174 FERC ¶ 61,125 (2021).

[2] I also voted for the 2021 changes to the procedures for imposing a stay on the certificate and use of eminent domain during periods when petitions for reconsideration and appeals were pending. *Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order No. 871–B, 175 FERC ¶ 61,098 (2021). These changes were largely opposed by the pipeline industry, but in my opinion represented a reasonable approach to bring more certainty and fairness to our procedures for handling petitions for reconsideration and the use of eminent domain during the pending period.

[3] *See Certification of New Interstate Natural Gas Facilities,* 178 FERC ¶ 61,107 (2022) (Certificate Policy Statement) at PP 53–57. The need for enhanced scrutiny of contracts among corporate affiliates is recognized in State utility regulation. *See, e.g.,* Va. Code § 56–76 *et seq.,* known as the ''Virginia Affiliates Act.''

[4] *See Joint Anti-Fascist Refugee Comm.* v. *McGrath,* 341 U.S. 123 (1951) (Frankfurter, J., concurring).

[5] *Certificate Policy Statement; Consideration of Greenhouse Gas Emissions in Natural Gas*

does not represent a reasonable update to the 1999 statement. On the contrary, what the majority does today is arrogate to itself the power to rewrite both the Natural Gas Act (NGA)[6] and the National Environmental Policy Act (NEPA),[7] a power that *only* the elected legislators in Congress can exercise. Today's action represents a truly radical departure from decades of Commission practice and precedent implementing the NGA.

3. The fundamental changes the majority imposes today to the Commission's procedures governing certificate applications are wrong as both law *and* policy. They clearly exceed the Commission's legal authority under the NGA and NEPA and, in so doing, violate the United States Supreme Court's major questions doctrine.[8]

4. The new policy also threatens to do fundamental damage to the nation's energy security by making it even more costly and difficult to build the infrastructure that will be critically needed to maintain reliable power service to consumers as the generation mix changes to incorporate lower carbon-emitting resources such as wind and solar. And as recent events in Europe and Ukraine graphically illustrate, America's energy security is an inextricable part of our national security.[9] The majority's proposal on GHG impacts is obviously motivated by a desire to address climate change, but will actually make it *more* difficult to expand the deployment of low or no-carbon resources, because it will make it more difficult to build or maintain the gas infrastructure essential to keep the lights on as more intermittent resources are deployed.[10] In addition to the essential need for natural gas to keep our power supply reliable, a dependable and adequate natural gas supply is critically needed for our manufacturing industries and the millions of jobs for American workers in those industries.[11]

5. And while I agree that reducing carbon emissions that impact the climate is a compelling policy goal,[12] this Commission—an administrative agency that only has the powers Congress has explicitly delegated to it—has no open-ended license under the U.S. Constitution or the NGA to address climate change or any other problem the majority may wish to address.

I. Legal Questions

6. The long-running controversy over the role and use of GHG analyses in natural-gas facility certificate cases raises two central questions of law and a third that flows from the first two:

7. *First,* whether the Commission can use a GHG analysis to *reject* a certificate—or attach conditions (including the use of coercive deficiency letters) amounting to a *de facto* rejection by rendering the project unfeasible—based on the NGA's ''public convenience and necessity'' [13] provision, even when the evidence otherwise supports a finding under the NGA that the facility is both ''convenient and necessary'' to provide the public with essential gas supply? Today's orders assume that the answer is yes.[14]

8. *Second,* whether the Commission can, or is required to, *reject* a certificate—or attach conditions (including the use of coercive deficiency letters) amounting to a *de facto* rejection by rendering the project unfeasible—based on a GHG analysis conducted as part of an environmental review under NEPA,[15] when the certificate application would otherwise be approved as both ''convenient and necessary'' under the NGA? Again, today's orders assume the answer is yes.[16]

9. *Third,* which, if any, conditions related to a GHG analysis may be attached to a certificate under NGA section 7(e),[17] or demanded through the use of deficiency letters? Today's orders seem to assume that there is essentially no limit to the conditions the Commission can impose.[18]

10. As discussed below, today's orders get each of these questions wrong.

Infrastructure Project Reviews, 178 FERC ¶ 61,108 (2022) (GHG Policy Statement). Although styled as an ''interim'' policy statement, it goes into effect immediately and will inflict major new costs and uncertainties on certificate applications that have been pending with the Commission for months or years. *Id.* at PP 1, 130. I consider both policy statements to be indivisible parts of a new policy governing certificates. Thus, my statement applies to both, and I am entering this dissent in both dockets.

[6] 15 U.S.C. 717 *et seq. See, e.g.,* Certificate Policy Statement at P 62.

[7] 42 U.S.C. 4321 *et seq.*

[8] *Nat'l Fed'n of Indep. Bus.* v. *Dep't of Labor, OSHA,* 142 S. Ct. 661 (2022) (*NFIB*); *Alabama Ass'n. of Realtors* v. *Dep't of Health and Human Services,* 141 S. Ct. 2485 (2021) (*Ala. Ass'n.*); *Util. Air Regulatory Grp.* v. *EPA,* 573 U.S. 302 (2014) (*UARG*); *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120 (2000) (*Brown & Williamson*). I discuss this doctrine in Section I.B., *infra.*

[9] *See, e.g.,* Natasha Bertrand, *US putting together 'global' strategy to increase gas production if Russia invades Ukraine, officials say,* CNN (Jan. 24, 2022), available at *https://www.cnn.com/2022/01/23/politics/us-gas-production-strategy-russia-ukraine-invasion/index.html https://www.cnn.com/2022/01/23/politics/us-gas-production-strategy-russia-ukraine-invasion/index.html; and,* Stephen Stapczynski and Sergio Chapa, *U.S. Became World's Top LNG Exporter, Spurred by Europe Crisis,* Bloomberg (Jan 4, 2022), available at *https://www.bloomberg.com/news/articles/2022-01-04/u-s-lng-exports-top-rivals-for-first-time-on-shale-revolution.*

[10] *See NERC December 2021 Long-Term Reliability Assessment,* at 5 (Dec. 2021) (''Natural gas is the reliability 'fuel that keeps the lights on,' and *natural gas policy must reflect this reality.*'') (emphasis added) (available at *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2021.pdf*); *id.* at 6 (''Sufficient flexible [dispatchable] resources are needed to support increasing levels of variable [intermittent] generation *uncertainty.* Until storage technology is fully developed and deployed at scale, (which cannot be presumed to occur within the time horizon of this LTRA), natural gas-fired generation will remain a necessary balancing resource to provide increasing flexibility needs.'') (emphasis added); *NERC 2020 Long-Term Reliability Assessment, December 2020,* at 7 (Dec. 2020) (''As *more solar and wind* generation is added, *additional* flexible resources are needed to offset their resources' variability. This is placing *more* operating pressure on those (*typically natural gas*) resources and makes them *the key to* securing [Bulk Power System] reliability.'' (emphases added) (available at *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2020.pdf*).

[11] Letter from Industrial Energy Consumers of America to Sen. Joe Manchin III, Sen. John Barrasso, Sen. Frank Pallone, Jr., Sen. Cathy McMorris Rodgers, *Lack of Interstate Natural Gas Pipeline Capacity Threatens Manufacturing Operations, Investments, Jobs, and Supply Chain* (Feb. 9, 2022).

[12] Since we are regulators with an advisory role, not Article III judges, my personal view is that the most politically realistic and sustainable way to reduce carbon emissions significantly without threatening the reliability of our grid and punishing tens of millions of American workers and consumers with lost jobs and skyrocketing energy prices (*see, e.g.,* Europe) is by massive *public* investment in the research, development and deployment of the technologies that can achieve that goal economically and effectively. *See, e.g.,* Press Release, Bipartisan Policy Center, *New AEIC Report Recommends DOE Combine Loan and Demonstration Offices, Jumpstart American Clean Energy Deployment* (Jan. 21, 2022), available at *https://bipartisanpolicy.org/press-release/new-aeic-report-recommends-doe-combine-loan-and-demonstration-offices-jumpstart-american-clean-energy-deployment/* (citing to American Energy Innovation Council, Scaling Innovation: A Proposed Framework for Scaling Energy Demonstrations and Early Deployment (Jan. 2022)). Once developed to commercial scale, marketable technologies will roll out globally on their own, without the market-distorting mandates and subsidies that only enrich rent-seekers and impoverish consumers. More specifically with regard to natural gas facilities, there is also the potential with available technology to reduce direct methane emissions from the existing oil and gas system within existing legal authority. And such initiatives do not obviate the need for near-term mitigation measures, such as preparing the electric grid to maintain power during extreme weather events.

[13] 15 U.S.C. 717f.

[14] Certificate Policy Statement at P 62; GHG Policy Statement at PP 4, 99.

[15] *See* Certificate Policy Statement at P 6, GHG Policy Statement at P 27.

[16] Certificate Policy Statement at P 62; GHG Policy Statement at PP 27, 99.

[17] 15 U.S.C. 717f(e).

[18] *See* Certificate Policy Statement at P 74; GHG Policy Statement at P 99.

A. The ''Public Interest'' in the Natural Gas Act

11. The starting point for answering all of these questions must be what ''public interest'' analysis the NGA empowers the Commission to make. Can the Commission's statutory responsibility to determine the ''public convenience and necessity'' be used to *reject* a project otherwise needed by the public based *solely* on adverse impacts to ''environmental interests'' [19] (a term today's orders leave undefined but which could be reduced to an unspecified level of GHG emissions) as the Commission today asserts? [20] Or can the Commission reject a project *solely* due to ''the interests of landowners and environmental justice communities'' as the majority also asserts? [21] The short answer is no. There is nothing in the text or history of the NGA to support such a claim about, or application of, the Commission's public interest responsibilities under the NGA.

12. As discussed herein, any claim that a ''public interest'' analysis under the NGA gives FERC the authority to reject a project based solely on GHG emissions is specious and ahistorical. The history of the NGA indicates that Congress intended the statute to *promote* the development of pipelines and other natural-gas facilities. As one Federal judge has observed, ''nothing in the text of [the NGA] . . . empowers the Commission to entirely deny the construction of an export terminal or the issuance of a certificate based solely on an adverse indirect environmental effect regulated by another agency.'' [22]

13. I recognize that the Commission and the courts have construed ''public convenience and necessity'' to require the Commission to consider ''all factors bearing on the public interest,'' [23] but the Supreme Court has been very clear that any public interest analysis undertaken in the course of determining ''public necessity and convenience'' is constrained by the purposes and limitations of the statute.[24] It is not an open-ended license to use this Commission's certificating authority to promote whatever a majority of Commissioners from time to time may happen to view as the ''public interest.''

14. With regard to GHG emissions that may be associated with upstream production activities or downstream distribution to, or consumption by, retail consumers, the Commission simply has *no* authority over such activities. That authority was left to the states.[25] Congress intended for the NGA to fill ''a regulatory gap'' over the ''*interstate* shipment and sale of gas.'' [26]

15. Even if the Commission were to undertake some estimate of the indirect GHG impacts of third-party activities that it has no authority to regulate, it does not follow that the Commission can then reject a certificate based on those impacts.[27] To do so would be to ignore the undeniable purpose of the NGA, which was enacted to facilitate the development and bringing to market of natural gas resources. The Commission's role under the NGA is to *promote* the development of the nation's natural gas resources and to safeguard the interests of ratepayers.[28] Any consideration of environmental impacts, while important, is necessarily subsidiary to that role.[29]

16. It is a truism that FERC is an economic regulator, *not* an environmental regulator. This Commission was not given certification authority in order to advance environmental goals; [30] it was given

[19] Certificate Policy Statement at P 62.

[20] *Id.*

[21] *Id.* The notion that a certificate could be rejected based solely on the interests of ''landowners'' or ''environmental justice communities'' (a term the majority leaves largely undefined) illustrates the radical divergence from both law and long Commission practice of what the Commission purports to do today. While a regulatory commission should always be mindful of and sensitive to the impacts on affected property owners and communities in every case involving the potential use of eminent domain—particularly on the question of the project's route or siting—and should generally seek wherever possible to reduce or minimize such impacts, specific measures to reduce or minimize such impacts are governed by the statutes applicable to each proceeding. Under both the Constitution and the NGA, if a project is needed for a public purpose, then landowners are made whole through just compensation. U.S. Const. amend. V. Questions of compensation are adjudicated in State or Federal court—not by this Commission. NGA section 7(h), 15 U.S.C. 717f(h). Bringing such extra-jurisdictional considerations into the Commission's public convenience and necessity analyses under NGA section 7 is just another expansion of Commission power far beyond anything justified in law.

[22] *Sabal Trail,* 867 F.3d 1357, 1382 (D.C. Cir. 2017) (*Sabal Trail*) (Brown, J., dissenting in part and concurring in part).

[23] *Atl. Refining Co.* v. *Pub. Serv. Comm'n of State of N.Y.,* 360 U.S. 378, 391 (1959) (''This is not to say that rates are the only factor bearing on the public convenience and necessity, for § 7(e) requires the Commission to evaluate all factors bearing on the public interest.''); *N.C. Gas Corp.,* 10 FPC 469, 476 (1950) (''Public convenience and necessity comprehends a question of the public interest. Or, stated another way: Is the proposal conducive to the public welfare? Is it reasonably required to promote the accommodation of the public? The public interest we referred to has many facets. *To the limit of our authority under the law* our responsibility encompasses them all'') (emphasis added) (quoting *Commonwealth Nat. Gas Corp.,* 9 FPC 70 (1950)).

[24] *NAACP* v. *FPC,* 425 U.S. 662, 669 (1976) (''This Court's cases have consistently held that the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general public welfare. Rather, the words take meaning from the purposes of the regulatory legislation.''). Where the Supreme Court has permitted the Commission to consider end use, those considerations have related directly to its core statutory responsibilities under the NGA, namely, ensuring adequate supply at reasonable rates. *See FPC* v. *Transcontinental Pipe Line Co.,* 365 U.S. 1 (1961) (permitting the Commission to consider whether the end use was ''wasteful'' of limited gas resources).

[25] NGA section 1(b), 15 U.S.C. 717(b).

[26] *ONEOK, Inc.* v. *Learjet, Inc.,* 575 U.S. 373, 378 (2015) (emphasis added); *see also, FPC* v. *Panhandle E. Pipe Line Co.,* 337 U.S. 498, 502–503 (1949) (''suffice it to say that the Natural Gas Act did not envisage federal regulation of the entire natural-gas field to the limit of constitutional power. Rather it contemplated the exercise of federal power as specified in the Act, particularly in that interstate segment which states were powerless to regulate because of the Commerce Clause of the Federal Constitution. The jurisdiction of the Federal Power Commission was to *complement* that of the state regulatory bodies.'') (emphasis added) (footnotes omitted); *Myersville Citizens for a Rural Cmty., Inc.* v. *FERC,* 783 F.3d 1301, 1315 (D.C. Cir. 2015) (''the Commission's power to preempt state and local law is circumscribed by the Natural Gas Act's savings clause, which saves from preemption the 'rights of States' under the Clean Air Act and two other statutes.'') (citations omitted).

[27] *Ofc. of Consumers' Counsel* v. *FERC,* 655 F.2d 1132, 1142 (D.C. Cir. 1980) (''We bear in mind the caveat that an agency may not bootstrap itself into an area in which it has no jurisdiction by violating its statutory mandate.'') (citations, quotation marks, ellipsis omitted).

[28] *City of Clarksville, Tenn.* v. *FERC,* 888 F.3d 477, 479 (D.C. Cir. 2018) (*City of Clarksville*) (''Congress enacted the Natural Gas Act with the principal aim of 'encouraging the orderly development of plentiful supplies of natural gas at reasonable prices,' and 'protect[ing] consumers against exploitation at the hands of natural gas companies,'') (citations omitted); *see also* Alexandra B. Klass & Danielle Meinhardt, *Transporting Oil and Gas: U.S. Infrastructure Challenges,* 100 *Iowa L. Rev.* 947, 990–99 (Mar. 2015).

[29] *City of Clarksville,* 888 F.3d. at 479. (''Along with those main objectives, there are also several 'subsidiary purposes including conservation, environmental, and antitrust issues.'''') (quoting *Pub. Utils. Comm'n of Cal.* v. *FERC,* 900 F.2d 269, 281 (D.C. Cir. 1990)) (cleaned up). This does not mean that the Commission cannot properly impose conditions or mitigation to address environmental impacts *directly* related to the jurisdictional project; it merely recognizes that the Commission's main objective is to facilitate the expansion and preservation of natural gas service at just and reasonable rates and that doing so will inevitably entail some measure of environmental costs. These can sometimes be reduced or minimized, but never completely eliminated. Every project ever built has some degree of environmental impacts. The standard under the NGA cannot be zero impacts.

[30] Congress could easily have conferred that authority if it had wanted to. There is no indication that Congress intended or expected FERC to perform any environmental regulation when it created the agency. *See generally,* Clark Byse, *The Department of Energy Organization Act: Structure and Procedure,* 30 Admin. L. Rev. 193 (1978). This Commission's predecessor, the Federal Power Commission, existed for decades before EPA was created in 1970. And Congress began enacting legislation bearing on emissions decades before then as well. *See* Christopher D. Ahlers, *Origins of the Clean Air Act: A New Interpretation,* 45 Envtl. L. 75 (2015). Nor were the effects of GHG emissions unknown at that time. *See* Danny Lewis, *Scientists Have Been Talking About Greenhouse Gases for 191 Years,* Smithsonian Magazine (Aug. 3, 2015) (citing to Nobel Laureate Svante Arrhenius' 1896 paper

certification authority to *ensure the development* of natural gas resources and their availability—this includes pipeline infrastructure—at just and reasonable rates. To construe the Commission's analysis of the public convenience and necessity as a license to *prohibit* the development of *needed* natural gas resources using the public interest language in the NGA would be to negate the very legislative purpose of the statute.[31] Put another way, the premise of the NGA is that the production and transportation of natural gas for ultimate consumption by end users is socially valuable and should be promoted, not that the use of natural gas (which inevitably results in some discharge of GHGs) is inherently destructive and must be curbed, mitigated, or discouraged.

17. To those who say ''well, times have changed and Congress was not thinking about climate change when it passed the NGA,'' here's an inconvenient truth: *If Congress wants to change the Commission's mission under the NGA it has that power; FERC does not.*

18. Any authority to perform a public interest analysis under the NGA must be construed with reference to the animating purposes of the Act. It is not a free pass to pursue any policy objective—however important or compelling it may be—that is related in some way to jurisdictional facilities.[32] As the Court of Appeals for the D.C. Circuit has explained:

> Any such authority to consider all factors bearing on ''the public interest'' must take into account what ''the public interest'' means *in the context of the Natural Gas Act.* FERC's authority to consider all factors bearing on the public interest when issuing certificates means authority to look into those factors which reasonably relate to the purposes for which FERC was given certification authority. *It does not imply authority to issue orders regarding any circumstance in which FERC's regulatory tools might be useful.*[33]

19. Whereas the Commission's role in certificating facilities under the NGA is explicit,[34] any purported authority for the Commission to regulate GHGs is conspicuously absent. The claim that the Commission can reject a needed facility due to GHG emissions using the public interest component in the NGA seems to be based on the following logic: To ascertain whether a facility serves the public convenience and necessity, the Commission must first determine whether the facility is in ''the public interest,'' which in turn entails considering factors such as ''environmental'' impacts from construction and operation of the proposed facility, as well as estimating and quantifying greenhouse gas emissions from the proposed facility, including both upstream emissions associated with gathering the gas and downstream emissions associated with its use, which the Commission is somehow empowered to deem to be too excessive to grant the certificate.[35] Suffice it to say, this tortured logic breaks apart in multiple places.[36]

20. Surely if Congress had any intention that GHG analyses should (or could) be the basis for rejecting certification of natural-gas facilities, it would have given the Commission clear statutory guidance as to when to reject on that basis. Instead, those who want the Commission to conjure up a standard on GHG emissions for deciding how much is *too* much are advocating for a standard resembling Justice Stewart's famous method for identifying obscenity, to wit, that he could not describe it, but ''I know it when I see it.'' [37] And the Supreme Court eventually had the good sense to abandon that ocular standard.[38]

21. Using GHG analysis to reject a certificate implicates an important judicial doctrine used in evaluating just how far an administrative agency can go in essentially *creating* public policy without clear textual support in statutory law. Now let's turn to that doctrine in this context.

B. The Major Questions Doctrine and the NGA

22. The Commission's actions today implicate the ''major questions doctrine,'' which Justice Gorsuch has recently explained as follows:

> The federal government's powers . . . are not general, but limited and divided. Not only must the federal government properly invoke a constitutionally enumerated source of authority to regulate in this area or any other, it must also act consistently with the Constitution's separation of powers. And when it comes to that obligation, this Court has established at least one firm rule: ''We expect Congress to speak clearly'' if it wishes to assign to an executive agency decisions ''of vast economic and political significance.'' We sometimes call this the major questions doctrine.[39]

In short, the major questions doctrine presumes that Congress reserves major issues to itself, so unless a grant of authority to address a major issue is explicit in a statute administered by an agency, it cannot be inferred to have been granted.

23. Whether this Commission can reject a certificate based on a GHG analysis—a certificate that otherwise would be approved under the NGA—is undeniably a major question of public

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''On the Influence of Carbonic Acid in the Air upon the Temperature of the Ground'').

[31] *See United States* v. *Pub. Utils. Comm'n of Cal.,* 345 U.S. 295, 315 (1953) (explaining that recourse to legislative history is appropriate where ''the literal words would bring about an end completely at variance with the purpose of the statute.'') (citations omitted). The present circumstance is very nearly the opposite: We are urged to pursue ''an end completely at variance with the purpose of the statute'' and for which there is *no* support in the ''literal words.'' *Id.; see also Ctr. for Biological Diversity* v. *U.S. Army Corps of Eng'rs,* 941 F.3d 1288, 1299 (11th Cir. 2019) (*Ctr. for Biological Diversity*) (''Regulations cannot contradict their animating statutes or manufacture additional agency power.'') (citing *Brown & Williamson,* 529 U.S. at 125–26).

[32] *NAACP* v. *FPC,* 425 U.S. at 665–670 (noting that, although ''the eradication of discrimination in our society is an important national goal,'' the Supreme Court has ''consistently held that the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general welfare. Rather, the words take meaning from the purposes of the regulatory legislation'' which, for the [Federal Power Act] and [Natural Gas Act], are ''to encourage the orderly development of plentiful supplies of electricity and natural gas at reasonable prices.''); *see also Brown & Williamson,* 529 U.S. at 161 (''no matter how important, conspicuous, and controversial the issue, and regardless of how likely the public is to hold the Executive Branch politically accountable, . . . an administrative agency's power to regulate in the public interest must always be grounded in a valid grant of authority from Congress.'') (quotation marks, citation omitted).

[33] *Office of Consumers' Counsel* v. *FERC,* 655 F.2d at 1147 (emphases added).

[34] *See, e.g.,* NGA section 7(e), 15 U.S.C. 717f(e) (apart from statutory exceptions, ''a certificate *shall* be issued to any qualified applicant . . . if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed,'' and, among other things, to comply with ''the requirements, rules and regulations of the Commission . . .'') (emphasis added).

[35] Certificate Policy Statement at PP 4–6; GHG Policy Statement at P 39 (citing *Sabal Trail,* 867 F.3d at 1372–73).

[36] I won't belabor the point, but just to reiterate: A ''public convenience and necessity'' analysis is not a generalized ''public interest'' analysis, as courts have recognized. *See, supra,* P 13 & n.24 and *infra,* P 27. The ''environmental'' impacts appropriately considered in a certification proceeding must surely be limited in some way to the proposed facility itself since both upstream gathering and downstream use are beyond the Commission's statutory jurisdiction. *See City of Clarksville,* 888 F.3d at 479 (identifying ''environmental'' concerns as a ''subsidiary'' purpose of the NGA).

[37] *Jacobellis* v. *Ohio,* 378 U.S. 184, 197 (1964) (Stewart, J., concurring); *see also* Catherine Morehouse, *Glick, Danly spar over gas pipeline reviews as FERC considers project's climate impacts for first time, Utility Dive* (Mar. 19, 2021) (quoting Chairman Glick regarding use of GHG emissions analysis in *N. Natural Gas Co.,* 174 FERC ¶ 61,189 (2021): ''We essentially used the eyeball test. . . .''). Shorn of its irrelevant disquisition on EPA's stationary source regulations, today's GHG policy statement enshrines an eyeball test as the trigger for subjecting virtually all certificate applicants to the time-consuming and costly EIS process. GHG Statement at PP 88–95.

[38] *Miller* v. *California,* 413 U.S. 15 (1973).

[39] *NFIB,* 142 S. Ct. at 667 (Gorsuch, J., concurring) (citations omitted).

policy. It will have enormous implications for the lives of everyone in this country, given the inseparability of energy security from economic security. Yet the Supreme Court has made it clear that broad deference to administrative agencies on major questions of public policy is *not* in order when statutes are lacking in any explicit statutory grant of authority.[40] ''*When much is sought from a statute, much must be shown. . . .* [B]road assertions of administrative power demand *unmistakable legislative* support.'' [41]

24. There is no ''unmistakable legislative support'' for the powers the Commission asserts today. A broad power to regulate upstream and downstream GHG emissions and their global impacts has simply *not* been delegated to this Commission.[42] To the extent the federal government has such power, it has been delegated elsewhere. ''Of necessity, Congress selects different regulatory regimes to address different problems.'' [43] The U.S. Environmental Protection Agency (EPA) is charged with regulating greenhouse gas emissions under the Clean Air Act.[44] By contrast, Congress established in the NGA a regulatory regime to address entirely different problems, namely, the need to develop the nation's natural gas resources and to protect ratepayers from unjust and unreasonable rates for gas shipped in the flow of interstate commerce. If it chose, Congress could enact legislation that would invest the Commission with authority to constrain the development and bringing to market of natural gas resources, but the fact is that Congress has chosen *not* to do so. On the contrary, every time Congress has enacted natural gas legislation, it has been to *promote* the development of natural gas resources, not throw up barriers to them.[45]

25. The fact that the NGA requires the Commission to make some form of public interest determination in the course of a certificate proceeding does not furnish a basis for the Commission to arrogate to itself the authority to constrain the development of natural gas resources on the grounds of their potential greenhouse gas emissions. As now-Justice Kavanaugh has explained: ''If an agency wants to exercise expansive regulatory authority over some major social or economic activity . . . *regulating greenhouse gas emitters, for example*—an ambiguous grant of statutory authority is not enough. Congress must *clearly authorize* an agency to take such a major regulatory action.'' [46] Congress has *not* ''clearly authorize[d]'' this Commission to regulate greenhouse gas emitters, nor to deny certificates to facilities whose construction and operation would be in the public convenience and necessity, simply because the construction and operation of such infrastructure may result in some amount of greenhouse gas emissions.[47] ''Even if the text were ambiguous, the sheer scope of the . . . claimed authority . . . would counsel against'' such an expansive interpretation.[48]

26. The fact that the Commission has absolutely no standard against which to measure the impact of natural gas production upstream or use downstream of the facilities it certificates is also important. In order for Congress to delegate any authority to an executive agency, it must legislatively set forth an intelligible principle for the agency to follow.[49] There is no such ''intelligible principle'' for the Commission to follow when it comes to greenhouse gas emissions.

27. Although the NGA requires the Commission to determine whether a proposed facility is in the ''public convenience and necessity,'' the term ''has always been understood to mean 'need' for the service. To the extent the environment is considered, such consideration is limited to the effects stemming from the construction and operation of the proposed facilities.'' [50] The term ''public convenience and necessity'' has long been understood to refer most essentially to the public's need for service on terms that are just and reasonable, *i.e.,* that are low enough for the public to pay the rates and high enough for the provider to maintain a profitable business.[51] That understanding was reflected in various statutes employing the term, including the Natural Gas Act.[52] And it was

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[40] *UARG,* 573 U.S. 302, 324 (2014) (''When an agency claims to discover in a long-extant statute an unheralded power to regulate 'a significant portion of the American economy,' *Brown & Williamson,* 529 U.S. at 159 . . . , we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast 'economic and political significance.' *Id.* at 160.''); *Gundy* v. *United States,* 139 S. Ct. 2116, 2141–42 (2019) (*Gundy*) (Gorsuch, J., dissenting) (''Under our precedents, an agency can fill in statutory gaps where 'statutory circumstances' indicate that Congress meant to grant it such powers. But we don't follow that rule when the 'statutory gap' concerns 'a question of deep economic and political significance' that is central to the statutory scheme. So we've rejected agency demands that we defer to their attempts to rewrite rules for billions of dollars in healthcare tax credits, to assume control over millions of small greenhouse gas sources, and to ban cigarettes.) (citations omitted).

[41] *In re MCP No. 165,* 20 F.4th 264, 267–268 (6th Cir. 2021) (Sutton, C.J., dissenting from denial of initial hearing en banc) (emphases added).

[42] *Panhandle E. Pipe Line Co.* v. *Pub. Serv. Comm'n of Ind.,* 332 U.S. 507, 516 (1947) (''three things, and three things only Congress drew within its own regulatory power, delegated by the [Natural Gas] Act to its agent, the Federal Power Commission. These were: (1) The transportation of natural gas in interstate commerce; (2) its sale in interstate commerce for resale; and (3) natural gas companies engaged in such transportation or sale.''); *cf. Ala. Assn.,* 141 S. Ct. at 2488 (invalidating the CDC's eviction moratorium because the ''downstream connection between eviction and the interstate spread of disease is markedly different from the direct targeting of disease that characterizes the measures identified in the statute'').

[43] *Am. Elec. Power Co.* v. *Conn.,* 564 U.S. 410, 426 (2011).

[44] *Id.* (''*Congress delegated to EPA the decision whether and how to regulate carbon-dioxide emissions from powerplants*'') (emphasis added); *Am. Lung Ass'n.* v. *EPA,* 985 F.3d at 959–60 (D.C. Cir. 2021) (''there is no question that the regulation of greenhouse gas emissions by power plants across the Nation falls squarely within the EPA's wheelhouse.''). Consider for a moment how strange it would be for Congress to delegate regulation of GHG emissions from electric power plants to EPA, while somehow delegating regulation of GHG emissions from natural gas fired power plants to FERC. Yet that is what today's orders presuppose.

[45] *See Mountain Valley Pipeline, LLC,* 171 FERC ¶ 61,232 (2020) (McNamee, Comm'r, concurring at PP 32–40) (discussing decades' worth of legislative enactments, all of which ''indicates that the Commission's authority over upstream production and downstream use of natural gas has been further limited by Congress.'').

[46] *U.S. Telecom Ass'n* v. *FCC,* 855 F.3d 381, 422 (Kavanaugh, J. dissenting) (emphases added); *see also NFIB,* 142 S. Ct. at 665 (''the question . . . is whether the Act plainly authorizes the Secretary's mandate. It does not.'').

[47] We cannot assume a Congressional intent to regulate *every* incidence of greenhouse gas emissions. As Justice Ginsberg observed, ''we each emit carbon dioxide merely by breathing.'' *Am. Elec. Power Co.* v. *Conn.,* 564 U.S. at 426.

[48] *Ala. Ass'n.,* 141 S. Ct. at 2489.

[49] Congress may ''delegate power under broad general directives'' so long as it sets forth ''an intelligible principle'' to guide the delegee. *Mistretta* v. *United States,* 488 U.S. 361, 372 (1989). *See Gundy,* 139 S. Ct. at 2129 (''a delegation is constitutional so long as Congress has set out an 'intelligible principle' to guide the delegee's exercise of authority. Or in a related formulation, the Court has stated that a delegation is permissible if Congress has made clear to the delegee the general policy he must pursue and the boundaries of his authority.'') (citations, internal quotations omitted).

[50] *Mountain Valley,* 171 FERC ¶ 61,232 (McNamee, Comm'r, concurring at P 41); *see also id.* PP 15–47.

[51] *See generally,* Ford P. Hall, *Certificates of Public Convenience and Necessity,* 28 Mich. L. Rev. 276 (1930) (analyzing the meaning of ''public convenience and necessity'' in State laws antedating passage of the NGA, and concluding that it is the need of the consuming public, without which it will be inconvenienced, that is the critical question to be answered).

[52] The first such statute appears to have been the Interstate Commerce Act (ICA). The Supreme Court explicitly held that the use of the term ''public convenience and necessity'' was chosen in the knowledge that it would be understood against the background of its historical usage. *ICC* v. *Parker,* 326 U.S. 60, 65 (1945) (construing ''public convenience and necessity'' under the ICA and recognizing that Congress' decision to use a term with such a long history indicated Congress intended ''a continuation of the administrative and judicial interpretation of the language.'') When it passed the NGA, Congress was similarly cognizant

further reflected in the earliest ''public convenience and necessity'' analyses under the NGA.[53]

28. To summarize: Whether and how to regulate GHG emissions is a major question of vast economic and political significance. Congress has not explicitly authorized the Commission to regulate in this area as required under the major questions doctrine, nor has it laid down an intelligible principle for the Commission to follow as required by the non-delegation doctrine. Moreover, EPA, in coordination with the states, already has authority to regulate in this area as specified in Federal statutes, which is far removed from this Commission's core expertise and traditional responsibilities.

29. Let's now turn to the second major question.

C. GHG Analysis Under NEPA

30. Is this Commission required or allowed by NEPA [54] to *reject* a certificate for a natural gas facility—*one that would otherwise be approved under the NGA*—based on a GHG analysis conducted as part of the NEPA environmental review? And rejection includes attaching mitigation conditions so onerous (or coercing through deficiency letters) that they render the project unfeasible.[55]

31. Again, the short answer is no. NEPA does not contain a shred of specific textual authority requiring or allowing the Commission to *reject* based on a NEPA review of estimated GHG impacts (indirect or direct) a certificate application for a facility that otherwise would be found necessary to serve the public under the NGA. Nor would it: As an information-forcing statute, NEPA imposes no substantive obligations.[56]

32. Even conducting an analysis of indirect GHG effects under NEPA goes too far. The Supreme Court has explicitly rejected the idea that an ''an agency's action is considered a cause of an environmental effect [under NEPA] even when the agency has no statutory authority to prevent that effect.'' [57] Rather, NEPA ''requires a reasonably close causal relationship between the environmental effect and the alleged cause,'' that is analogous to ''the familiar doctrine of proximate cause from tort law.'' [58] While this might leave some difficult judgments at the margins, estimates of the potential global impacts of possible non-jurisdictional upstream or downstream activity—as today's orders purport to require [59]—is not a close call.

33. First off, in determining how far an agency's NEPA responsibilities run, one ''must look to the underlying policies or legislative intent in order to draw a manageable line between those causal changes that may make an actor responsible for an effect and those that do not.'' [60] As discussed at length above, there is no way of drawing a plausible line, much less a manageable one, from the Commission's certificating responsibilities under the NGA and the possible consequences of global climate change—consequences which, however potentially grave, are remote from this agency's limited statutory mission under the NGA.

34. Second, speculating about the possible future impact on global climate change of a facility's potential GHG emissions does not assist the Commission in its decision-making and therefore violates the ''rule of reason'': Where an agency lacks the power to do anything about the possible environmental impacts, it is not obligated to analyze them under NEPA.[61] Again, the Supreme Court has explained, ''inherent in NEPA and its implementing regulations is a 'rule of reason,' which ensures that agencies determine whether and to what extent to prepare an EIS based on the usefulness of any new potential

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of having employed the same concept as in the ICA. *See,* Robert Christin et al., *Considering the Public Convenience and Necessity in Pipeline Certificate Cases under the Natural Gas Act,* 38 Energy L.J. 115, 120 (2017) (citing Comm. on Interstate Commerce, Interstate Transportation and Sale of Natural Gas, S. Rep. No. 75–1162, at 5 (Aug. 9, 1937) and noting that ''the concept of a regulatory agency determining whether a private entity's proposal was in the public convenience and necessity was an established practice when the NGA was enacted.'').

[53] *See In re Kan. Pipe Line & Gas Co.,* 2 FPC 29, 56 (1939) (''We view the term [public convenience and necessity] as meaning a public need or benefit without which the public is inconvenienced to the extent of being handicapped in pursuit of business or comfort or both without which the public generally in the area involved is denied to its detriment that which is enjoyed by the public of other areas similarly situated.'')

[54] NEPA, 42 U.S.C. 4321 *et seq.,* requires all federal agencies to undertake an ''environmental assessment'' of their actions, typically including the preparation of an ''environmental impact statement'' of proposed ''major federal actions.'' As discussed below, the purpose of the EA and EIS is for the agency to be fully informed of the impact of its decisions. NEPA does not mandate any specific action by the agency in response to an EA or EIS, other than to make an informed decision. *See, e.g.,* Steven M. Siros, et al., *Pipeline Projects—The Evolving Role of Greenhouse Gas Emissions Analyses under NEPA,* 41 Energy L.J. 47 (May 2020); *see also Sabal Trail,* 867 F.3d at 1367–68 (describing NEPA as ''primarily information-forcing'' and noting that courts ''should not '''flyspeck'' an agency's environmental analysis, looking for any deficiency no matter how minor.''') (quoting *Nevada* v. *Dep't of Energy,* 457 F.3d 78, 93 (D.C. Cir. 2006)).

[55] NGA section 7(e), 15 U.S.C. 717f(e), authorizes the Commission to attach to a certificate ''such reasonable terms and conditions as the public convenience and necessity may require.'' There is no analytical difference between the Commission's authority to reject a certificate application and its authority to mitigate it. *See Nat'l Fuel Gas Supply Corp.* v. *FERC,* 909 F.2d 1519, 1522 (D.C. Cir. 1990) (''The Commission may not, . . . when it lacks the power to promote the public interest directly, do so indirectly by attaching a condition to a certificate that is, in its unconditional form, already in the public convenience and necessity.'') (citations omitted). That the Commission may be tempted to abuse its conditioning authority has long been recognized. *See* Carl I. Wheat, *Administration by the Federal Power Commission of the Certificate Provisions of the Natural Gas Act,* 14 Geo. Wash. L. Rev. 194, 214–215 (1945) (''It is particularly important that the Commission . . . steel itself against the somewhat natural temptation to attempt to use such 'conditions' as substitutes or 'shortcuts' for other (and more appropriate) methods of regulation prescribed in the statute. . . . . [W]hatever may be said with respect to conditions concerning rates and other matters over which the Commission has specific authority under other provisions of the Act, it would appear clear that the power to prescribe 'reasonable conditions' in certificates cannot be greater in scope than the statutory authority of the Commission.'')

[56] ''[*I*]*t is now well settled that NEPA itself does not mandate particular results, but simply prescribes the necessary process.* If the adverse environmental effects of the proposed action are adequately identified and evaluated, *the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs.* . . . Other statutes may impose substantive environmental obligations on federal agencies, . . . *but NEPA merely prohibits uninformed—rather than unwise—agency action.*'' *Robertson* v. *Methow Valley Citizens Council,* 490 U.S. 332, 350–51 (1989) (citations omitted; emphases added). *See also, e.g., Minisink Residents for Envtl. Preserv. & Safety* v. *FERC,* 762 F.3d 97, 112 (D.C. Cir. 2014) (same).

[57] *Dep't. of Transp.* v. *Pub. Citizen,* 541 U.S. 752, 767 (2004) (*Pub. Citizen*). This principle has been incorporated into the implementing regulations of the Council of Environmental Quality (CEQ), an executive branch agency. *See* 40 CFR 1508.1(g)(2) (2021) (''Effects do not include those effects that the agency has no ability to prevent due to its limited statutory authority or would occur regardless of the proposed action'').

[58] *Pub. Citizen,* 541 U.S. at 767 (citations omitted).

[59] Certificate Policy Statement at PP 73–76; GHG Policy Statement at PP 28–31.

[60] *Pub. Citizen,* 541 U.S. at 767 (citations omitted).

[61] *See, e.g., Sabal Trail,* 867 F.3d at 1372 (citing *Pub. Citizen,* 541 U.S. at 770) (''when the agency has no *legal* power to prevent a certain environmental effect, there is no decision to inform, and the agency need not analyze the effect in its NEPA review.'') (emphasis in original); *Citizens Against Burlington, Inc.* v. *Busey,* 938 F.2d 190, 195 (D.C. Cir. 1991) (''an agency need follow only a 'rule of reason' in preparing an EIS . . . and . . . this rule of reason governs both *which* alternatives the agency must discuss, and the *extent* to which it must discuss them.'') (internal citations and quotations omitted, emphasis in original). To state the obvious: We have absolutely no way of knowing how much an individual project may or may not contribute to global climate change for any number of reasons, including because there is no way for us to meaningfully evaluate the release of GHG emissions if the facility in question were not to be certificated. Notwithstanding, today, the majority boasts of forcing virtually every certificate applicant into the EIS process. GHG Policy Statement at PP 80, 88.

information to the decision-making process. Where the preparation of an EIS would serve 'no purpose' in light of NEPA's regulatory scheme as a whole, no rule of reason worthy of the title would require an agency to prepare an EIS.'' [62]

35. This conclusion becomes even more obvious when considered alongside the undeniable fact that neither NEPA nor any other statute contains a scintilla of guidance as to which specific metrics are to be used to determine when the Commission can or must reject a project based on a GHG analysis. The Commission today establishes a threshold of 100,000 metric tons of CO_2e of annual project emissions for purposes of its analysis of natural gas projects under NEPA [63] The rationale for establishing this threshold has literally *nothing* to do with the Commission's NGA obligations, or even with its NEPA obligations. It consists of little more than piggybacking on EPA's approach to regulating stationary sources.[64] Today's order boasts that this new threshold will capture projects ''transporting an average of 5,200 dekatherms per day and projects involving the operation of *one* or more compressor stations or LNG facilities'' [65] and that this threshold ''will capture over 99% of GHG emissions from Commission-regulated natural gas projects.'' [66]

36. These are just arbitrarily chosen numbers. A proliferation of quantification does not constitute reasoned decision-making. All of the important questions about the creation and application of this threshold remain unanswered: Is there anything in either the NGA or NEPA to indicate how much is too much and should be rejected? Or how little is low enough to get under the red line? No. If the Commission is attempting to quantify *indirect* global GHG impacts, as EPA now suggests we do,[67] how much global impact is too much and requires rejection of the certificate? How much impact is *not* too much? Should rejection only be based on impacts on the United States? North America? The Western Hemisphere? The planet? Where is the line? Again, there is absolutely no statutory provision that answers these questions as to the application of GHG metrics in a certificate proceeding brought under the NGA. The complete absence of any statutory guidance on the seminal question of ''how much is too much?'' would render any action by the Commission to reject a certificate based on any metric as ''arbitrary and capricious'' in the fullest sense.[68]

37. I recognize that the 100,000 metric tons marker adopted in today's orders is not a threshold for rejecting a proposed project but only for subjecting it to further scrutiny in the form of an EIS. But this is no small matter—completion of an EIS is extremely cost-intensive and time-consuming and, in addition, creates a plethora of opportunities for opponents of the project who otherwise lack meritorious objections to it, to run up the costs, to cause delays, and to create new grounds for the inevitable appeals challenging the certificate even if the applicant does manage to obtain it.[69]

38. NEPA provides no statutory authority to reject a gas project that would otherwise be approved under the NGA. How could it? As is well-known, the duties NEPA imposes are essentially procedural and informational.[70] The Commission's regulations implementing NEPA reflect its limits by noting that, ''[t]he Commission will comply with the regulations of the Council on Environmental Quality *except where those regulations are inconsistent with the statutory requirements of the Commission*.'' [71]

39. It's not actually very difficult to see how the approach the majority adopts today is ''inconsistent with the statutory requirements of the Commission.'' [72] I will repeat that the purpose of the NGA is to *promote* the development, transportation, and sale at reasonable rates of natural gas. I will repeat that the NGA conveys only *limited* jurisdictional authority; that NEPA conveys *no* jurisdictional authority; that a *different* agency is responsible for regulating GHGs; and that such regulation is a *major issue* that Congress would have to speak to *unambiguously,* which it clearly has *not* done. And yet under the analysis embraced by the majority today, this Commission purports to impose onerous—possibly fatal—regulatory requirements on certificate applicants in order to generate reams of highly speculative data that have no meaningful role to play in the execution of this agency's statutory duties.[73] In fact, it contravenes the purposes of the NGA in at least two obvious ways: First, by bringing extrinsic considerations to bear on the Commission's decision-making, and second, by causing needless delay in the process.[74]

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[62] *Pub. Citizen,* 541 U.S. at 767 (citations omitted).

[63] GHG Policy Statement at P 80, 88. For purposes of determining what emissions count toward the 100,000 metric tons per year threshold, the majority states that this number is measured based on ''the construction, operational, downstream, and, where determined to be reasonably foreseeable, upstream GHG emissions that reoccur annually over the life of the project.'' *Id.* P 80 & n.197.

[64] *Id.* PP 88–93 (acknowledging that the Supreme Court has partially invalidated EPA's regulatory regime).

[65] *Id.* P 89 (emphasis added).

[66] *Id.* P 95. It appears that the majority's intent is to force all applicants into the EIS process. This will undeniably cause each application to become far more costly and time-consuming, both obvious disincentives to even trying.

[67] EPA Comments, *Iroquois Gas Transmission Sys., L.P.,* Docket No. CP20–48–000 at 1–2 (filed Dec. 20, 2021) (EPA Dec. 20, 2021 Letter).

[68] And yet, as a practical matter, applicants must spend years of work and possibly millions of dollars (or more) in preparatory tasks like lining up financing, securing local political support, obtaining permits, etc. All this extensive legwork is needed just to put an application in to the Commission. Today's orders effectively tell applicants that their application could be rejected for any reason or no reason at all. Nor does the majority even do the courtesy of providing a target for the applicant to aim at.

[69] *See* Bradley C. Karkkainen, *Whither NEPA?,* N.Y.U. Envtl. L.J . 333, 339 & n.31 (2004) (noting that ''Department of Energy EISs produced prior to 1994 had a mean cost of $6.3 million and a median cost of $1.2 million; following an aggressive effort to reduce costs, after 1994 the mean cost fell to $5.1 million, but the median cost rose to $2.7 million.'')

[70] *See, Nat. Res. Def. Council, Inc.* v. *EPA,* 822 F.2d 104, 129 (D.C. Cir. 1987) (''NEPA, as a procedural device, *does not work a broadening of the agency's substantive powers.* Whatever action the agency chooses to take must, of course, be within its province in the first instance.'') (citations omitted, emphasis added); *Balt. Gas & Elec. Co.* v. *Natural Res. Defense Council, Inc.,* 462 U.S. 87, 97 (1983) (acknowledging NEPA's ''twin aims'' as obligating an agency ''to consider every significant aspect of the environmental impact of a proposed action'' and ensuring ''that the agency will inform the public that it has indeed considered environmental concerns in its decision-making process,'' but noting that ''Congress in enacting NEPA, however, did not require agencies to elevate environmental concerns over other appropriate considerations.'') (citations, alterations omitted).

[71] 18 CFR 380.1 (2021) (emphasis added); *see also* 40 CFR 1500.3(a) (2021) (compliance with the CEQ regulations ''is applicable to and binding on all Federal agencies . . . except where compliance would be inconsistent with other statutory requirements'').

[72] 18 CFR 380.1 (2021). *See* The Hon. Joseph T. Kelliher Jan. 7, 2022 Comments, *Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations,* Docket No. PL21–3–000 at 2 (The Hon. Joseph T. Kelliher Jan. 7, 2022 Comments) (''if imposing mitigation for direct and indirect emissions discourages or forestalls pipeline development, the mitigation policy is directly contrary to the principal purpose of the Natural Gas Act and must be set aside.'').

[73] Bradley C. Karkkainen, *Whither NEPA?,* N.Y.U. Envtl. L.J. at 345–346 (noting that fear of NEPA challenges has led agencies to '''kitchen sink' EISs'' to reduce the risk of reversal, but that almost nobody actually reads them ''and those who attempt to do so may find it difficult to separate the good information from the junk. Contrary to conventional wisdom, more information is not always better.''); *see also, Pub. Citizen,* 541 U.S. at 768–769 (''NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action.'') (quoting then-in effect 40 CFR 1500.1(c) (2003)).

[74] The delay is clearly part of the point. Why else funnel virtually every certificate applicant into the EIS process? *See e.g.,* Bradley C. Karkkainen, *Whither NEPA?,* N.Y.U. Envtl. L.J. at 339–40 (observing that NEPA has become ''a highly effective tool that environmental NGOs and others

40. There is no meaningful way of evaluating any of the critical issues, and no statutory authority to actually do anything about upstream or downstream emissions,[75] but unlimited ways to find fault with any analysis. Even though they aren't supposed to ''flyspeck'' an agency's NEPA analysis, judges who wish to impose their own policy preferences will be tempted to do exactly that. And once the agency undertakes to address an issue in its NEPA analysis, it is subject to the APA's ''reasoned decision-making'' standard of review.[76] Thus the effect is to ramp up dramatically the legal uncertainties and costs facing any certificate applicant.

D. The Policy Statements Rest on Inadequate Legal Authority

41. Today's orders rely to a remarkable degree on a smattering of statements from a handful of recent orders. Simply put, these authorities are simply ''too slender a reed'' [77] to support the great weight today's orders place on them.

42. Neither *Sabal Trail* [78] nor *Birckhead,*[79] nor the more recent *Vecinos* [80] opinion from the D.C. Circuit changes any of the analysis above. Indeed, to the extent language from those cases is interpreted as requiring the Commission to exercise authority *not* found in statutes—and these opinions are more confusing than clear, as well as inconsistent with the D. C. Circuit's own precedent—then such an interpretation would be contrary to the Supreme Court's major question doctrine. Be that as it may, while I recognize that *Sabal Trail* and *Vecinos* are presently applicable to this Commission, neither of those cases individually nor both of them together provide a lawful basis for *rejecting* a certificate for a facility that is otherwise found to be needed under the NGA solely because of its estimated potential impacts on global climate change.[81]

43. Virtually the entire structure of the majority's fundamental policy changes rests on a single line from *Sabal Trail.*[82] That statement is itself predicated on an idiosyncratic reading of *Public Citizen* and the D.C. Circuit's own precedents.[83] *Sabal Trail* rather facilely distinguished existing D.C. Circuit precedent on the grounds that, in contrast to those cases, the same agency that was performing the EIS was also authorized to approve or deny the certificate.[84] It reasoned that because the Commission could take ''environmental'' issues into account in its public interest analysis, and GHG emissions raise ''environmental'' issues, it must therefore follow that the Commission could deny a certificate based on projected GHG emissions estimates.

44. *Sabal Trail* acknowledged that ''*Freeport* and its companion cases rested on the premise that FERC had no legal authority to prevent the adverse environmental effects of natural gas exports.'' [85] Specifically, ''FERC was forbidden to rely on the effects of gas exports *as a justification for* denying an upgrade license.'' [86] In contrast with those cases—all of which addressed certification of LNG facilities under NGA section 3 as opposed to interstate transportation facilities under NGA section 7—the court in *Sabal Trail* concluded that, under NGA section 7, by contrast, ''FERC is not so limited. Congress broadly instructed the agency to consider 'the public convenience and necessity' when evaluating applications to construct and operate interstate pipelines.'' [87] It thus concluded that, ''[b]ecause FERC could deny a pipeline certificate on the ground that the pipeline would be too harmful for the environment, the agency is a 'legally relevant cause' of the direct and indirect environmental effects of pipelines that it approves. *See Freeport,* 827 F.3d at 47. *Public Citizen* thus did not excuse FERC from considering these indirect effects.'' [88]

45. But the *Sabal Trail* court never considered with reference to the Commission's statutory authority the proper scope of that public interest analysis or the extent to which ''environmental'' issues could be considered in that context. It simply assumed the Commission's authority to be unlimited. But as discussed above, Congress drafted the NGA for the purpose of filling a specific gap in regulatory authority. The only way *Sabal Trail* would be correct is if Congress had ''clearly authorized'' the Commission to evaluate geographically and temporally remote impacts of non-jurisdictional activity in its ''public convenience and necessity'' determinations. As discussed above,

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can use to raise the financial and political costs of projects they oppose and stretch out decisions over an extended time frame, giving time to rally political opposition.''). *See also* P 47, *infra.*

[75] In fact, even if the Commission had the authority to impose upstream or downstream GHG emissions mitigation, or to deny certificates of public convenience and necessity on that basis, the majority admits that it is by no means obvious that doing so would actually prevent or even meaningfully reduce global climate change or the problems associated with it. *See* GHG Policy Statement at P 88 (noting that ''[e]ven if deep reductions in GHG emissions are achieved, the planet is projected to warm by at least 1.5 degrees Celsius (°C) by 2050;'' and that ''even relatively minor GHG emissions pose a significant threat'').

[76] *Vecinos Para El Bienestar de la Comunidad Costera* v. *FERC,* 6 F.4th 1321, 1329 (D.C. Cir. 2021) (*Vecinos*) (''Because the Commission failed to respond to significant opposing viewpoints concerning the adequacy of its analyses of the projects' greenhouse gas emissions, we find its analyses deficient under NEPA and the APA.'').

[77] *Cf.* The Hon. Joseph T. Kelliher Jan. 7, 2022 Comments at 3.

[78] *Sabal Trail,* 867 F.3d 1357. In support of its assertion of broad discretion in attaching conditions to a certificate, the majority also cites to *ANR Pipeline Co.* v. *FERC,* 876 F.2d 124, 129 (D.C. Cir. 1989) (*ANR Pipeline*). Certificate Policy Statement at P 74 & n. 190. Since the Commission's conditioning authority is limited in the same way as its certificating authority, there is little reason to discuss it separately. I will only note in passing that, although the court described the Commission's conditioning authority as ''extremely broad,'' the only issue actually before the court in *ANR Pipeline* was the validity of certificate terms imposed in furtherance of the Commission's core duty to ensure that rates are non-discriminatory. *Id.*

[79] *Birckhead* v. *FERC,* 925 F.3d 510 (D.C. Cir. 2019) (rejecting, for failure to raise the issue before the Commission, a claim that NEPA requires FERC to analyze downstream GHG emissions). Since *Birckhead* was decided on jurisdictional grounds, any substantive commentary in that order is mere dicta and I will not discuss it further.

[80] *Vecinos,* 6 F.4th 1321.

[81] Both orders suffer from a number of infirmities that don't bear belaboring in this context. In brief, however, *Sabal Trail* reads the Commission's duty to ''balance 'the public benefits against the adverse effects of the project, including adverse environmental effects,'' *Sabal Trail,* 867 F.3d at 1373 (quoting *Minisink Residents for Envtl. Pres. & Safety* v. *FERC,* 762 F.3d 97 at 101–02 and citing *Myersville Citizens for a Rural Cmty.* v. *FERC,* 783 F.3d at 1309), far too expansively, and *Vecinos* compounds that error. Both orders are discussed below.

[82] Namely, ''[b]ecause FERC could deny a pipeline certificate on the ground that the pipeline would be too harmful for the environment, the agency is a 'legally relevant cause' of the direct and indirect environmental effects of pipelines that it approves.'' *Sabal Trail,* 867 F.3d at 1373. The other orders the majority relies on depend vitally on this statement. *See, e.g.,* Certificate Policy Statement at PP 75 & n. 192 (citing *Birckhead*); 86 & n. 207 (citing *Vecinos*); GHG Policy Statement at PP 13, 36–38 (citing *Birckhead*) and P 14 & n. 38 (citing *Vecinos*).

[83] *See Ctr. for Biological Diversity,* 941 F.3d at 1300 (''the legal analysis in *Sabal Trail* is questionable at best. It fails to take seriously the rule of reason announced in *Public Citizen* or to account for the untenable consequences of its decision. The *Sabal Trail* court narrowly focused on the reasonable foreseeability of the downstream effects, as understood colloquially, while breezing past other statutory limits and precedents—such as *Metropolitan* [*Edison Co.* v. *People Against Nuclear Energy,* 460 U.S. 776 (1983)] and *Public Citizen*—clarifying what effects are cognizable under NEPA.'').

[84] *Sabal Trail,* 867 F.3d at 1372–1373. In each of the D.C. Circuit orders *Sabal Trail* purported to distinguish, the court had found that FERC did not have to analyze, because it could not regulate, downstream emissions.

[85] *Id.* at 1373 (citing *Sierra Club* v. *FERC* (*Freeport*), 827 F.3d 36, 47 (D.C. Cir. 2016). The ''companion cases'' are *Sierra Club* v. *FERC* (*Sabine Pass*), 827 F.3d 59 (D.C. Cir. 2016) and *EarthReports, Inc.* v. *FERC,* 828 F.3d 949 (D.C. Cir. 2016).

[86] *Sabal Trail,* 867 F.3d at 1373 (emphasis in original).

[87] *Id.* (citations omitted).

[88] *Id.*

that conclusion is clearly, irredeemably, wrong.[89]

46. As for *Vecinos,* there, the court compounds that error both by relying uncritically on *Sabal Trail* and by finding fault with the Commission for failing to connect its decision not to use the Social Cost of Carbon to Petitioners' argument that it was required to do so under 40 CFR 1502.21(c).[90] That regulation sets forth an agency's obligations when ''information relevant to reasonably foreseeable significant adverse impacts cannot be obtained.'' [91] But global climate change is only a ''foreseeable significant adverse impact'' of the Commission's action *if* the Commission's authority extends as far as the *Sabal Trail* court said it does. For the reasons set out in this statement, I respectfully disagree. Nor am I alone in my disagreement.[92]

47. Finally, as to the contention that the Commission is bound to follow *Sabal Trail* notwithstanding its errors, I would simply point out that intervening Supreme Court precedents—such as *NFIB* [93] and *Ala. Ass'n.*[94]—have not just significantly weakened, but utterly eviscerated the conceptual underpinnings of *Sabal Trail*'s limitless construction of the Commission's public interest inquiry under the NGA's ''public convenience and necessity'' analysis.[95] It is folly for this Commission to proceed heedless of the Supreme Court's recent rulings that agencies may not use ambiguous or limited grants of statutory authority in unprecedented ways to make policy on major questions that Congress has reserved for itself. But that's exactly what the Commission does today.[96]

48. We are indeed bound to follow judicial precedent, but we don't get to ''cherry pick'' one precedent such as *Sabal Trail* because we like that particular opinion, while ignoring the many other conflicting precedents, especially those more recent rulings from the Supreme Court itself applying the major question doctrine. These more recent opinions light up *Sabal Trail* as a clear outlier.

II. The Real Debate Is About Public Policy Not Law

49. Preventing the construction of each and every natural gas project is the overt public-policy goal of many well-funded interest groups working to reduce or eliminate natural gas usage.[97] Today's orders, whatever the intent, will have the undeniable effect of advancing that *policy* goal, and we should not deny the obvious. Rather than bringing legal certainty to the Commission's certificate orders,[98] today's orders will greatly increase the costs and uncertainty associated with this Commission's own handling of certificate applications. In fact, by purporting to apply today's new policy retroactively on applications that have already been submitted (and in many instances pending for years), today's action is deeply unfair: It judges by an entirely new set of standards applications that were prepared and submitted to meet the old standards and essentially opens all of them to be relitigated.[99] The undoubted effect of these orders will be to interpose additional months or years of delay on project applicants and to increase exponentially the vulnerability on appeal of any Commission orders that do approve a project.

50. Recently I said the Commission's new rule on unlimited late interventions in certificate cases was ''not a legal standard, but a legal weapon.'' [100] The new certificate policy approved today is the mother of all legal weapons. There is no question that it will be wielded against each and every natural gas facility both at the Commission and in the inevitable appeals, making the costs of even pursuing a natural gas project insuperable.

51. Let me emphasize that every person or organization pursuing the policy goal of ending the use of natural gas by opposing every natural gas facility has an absolute right under the First Amendment to engage in such advocacy. However, whether to end the use of natural gas by banning the construction of all new natural gas projects is a public policy question of

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[89] *Supra,* Section I.B. *Cf. ICC* v. *Parker,* 326 U.S. 60, 65 (1945) (construing ''public convenience and necessity'' under the Interstate Commerce Act and recognizing that Congress' decision to use a term with such a long history indicated Congress intended ''a continuation of the administrative and judicial interpretation of the language.''). Far from being ''a continuation of the administrative and judicial interpretation of the language,'' construing it to extend to an analysis of global GHG emissions is novel and unprecedented.

[90] *Vecinos,* 6 F.4th at 1328–30.

[91] 40 CFR 1502.21(c).

[92] *See supra,* n. 83.

[93] *NFIB,* 142 S. Ct. 661.

[94] *Ala. Ass'n.,* 141 S. Ct. 2485 at 2489.

[95] *See generally, Allegheny Def. Project* v. *FERC,* 964 F.3d 1, 18 (D.C. Cir. 2020) (noting that circuit court precedent may be departed from ''when intervening developments in the law—such as Supreme Court decisions—have removed or weakened the conceptual underpinnings of the prior decision.'') (cleaned up, citation omitted).

[96] In his *NFIB* concurrence, Justice Gorsuch states: ''Sometimes Congress passes broadly worded statutes seeking to resolve important policy questions in a field while leaving an agency to work out the details of implementation. Later, the agency may seek to exploit some gap, ambiguity, or doubtful expression in Congress's statutes to assume responsibilities far beyond its initial assignment. The major questions doctrine guards against this possibility by recognizing that Congress does not usually hide elephants in mouseholes.'' 142 S. Ct. at 669 (Gorsuch, J., concurring) (citations, alterations omitted). It would be hard to find a better description of the path the Commission has taken to arrive at today's orders.

[97] *See, e.g.,* Bloomberg Philanthropies, *https://www.bloomberg.org/environment/moving-beyond-carbon/* (''Launched in 2019 with a $500 million investment from Mike Bloomberg and Bloomberg Philanthropies, Beyond Carbon . . . . works . . . to . . . *stop the construction of proposed gas plants.*'') (last visited Feb. 8, 2022) (emphasis added); Sierra Club, *https://www.sierraclub.org/policy/energy/fracking,* (''There are no 'clean' fossil fuels. The Sierra Club is committed to *eliminating the use of fossil fuels,* including coal, *natural gas* and oil, as soon as possible'') (emphases added) (last visited Feb. 8, 2022); Natural Resources Defense Council, *https://www.nrdc.org/issues/reduce-fossil-fuels* (''Oil, *gas,* and other fossil fuels come with grave consequences for our health and our future. . . . *NRDC is pushing America to move beyond these dirty fuels. We fight dangerous energy development on all fronts*'') (emphases added) (last visited Feb. 8, 2022); Press Release, *NRDC Receives $100 million from Bezos Earth Fund to Accelerate Climate Action* (Nov. 16, 2020), available at *https://www.nrdc.org/media/2020/201116* (''The Bezos Earth Fund grant will be used to help NRDC advance climate solutions and legislation at the State level, move the needle on policies and programs focused on *reducing oil and gas production*'') (emphasis added) (last visited Feb. 8, 2022); Sebastian Herrera, *Jeff Bezos Pledges $10 Billion to Tackle Climate Change,* Wall Street Journal (Feb. 17, 2020) (''Mr. Bezos . . . said the *Bezos Earth Fund* would help back scientists, *activists, [non-governmental organizations]*'') (emphasis added); *see also,* Ellie Potter, *Environmentalists launch campaign to ban gas from US clean energy program,* S&P Global Platts (Sep. 2, 2021) (quoting Collin Rees, U.S. Campaign Manager for Oil Change International, ''Clean energy means *no gas* and no other fossil fuels, period.'') (emphases added); Sean Sullivan, *FERC sets sights on gas infrastructure policy in 2022,* S&P Capital IQ (Dec. 31, 2021) (quoting Maya van Rossum, head of Delaware Riverkeeper Network, ''we are not changing course at all: We continue to take on *every* pipeline, LNG, and fracked gas project as urgently as we did before, knowing we will have to *invest heavily to stop it* . . .'') (emphases added).

[98] *See* Letter of Chairman Richard Glick to Sen. John Barasso, M.D. (Feb. 1, 2022) (''Preparing an EIS to consider the reasonably foreseeable GHG emissions that may be attributed to a project proposed under section 7 of the NGA allows the Commission to issue more legally durable orders on which all stakeholders can depend, including project developers.''); Letter of Commissioner Allison Clements to Sen. John Barasso, M.D. (Feb. 1, 2022) (''I will do my part to assure that the updated policy will be a legally durable framework for fairly and efficiently considering certificate applications—one that serves the public interest and increases regulatory certainty for all stakeholders.''); *see also,* Corey Paul, *FERC Dems argue legal benefits from climate reviews outweigh gas project delays,* S&P Capital IQ Pro (Feb. 3, 2022).

[99] Certificate Policy Statement at P 100 (''the Commission will apply the Updated Policy Statement to any currently pending applications for new certificates. Applicants will be given the opportunity to supplement the record and explain how their proposals are consistent with this Updated Policy Statement, and stakeholders will have an opportunity to respond to any such filings.'')

[100] *Adelphia Gateway, LLC,* 178 FERC ¶ 61,030 (2022) (Christie, Comm'r concurring at P 4) (available at: *https://www.ferc.gov/news-events/news/item-c-3-commissioner-christies-partial-concurrence-and-partial-dissent-adelphia*).

immense importance, one that affects the lives and livelihoods of tens of millions of Americans and their communities, as well as the country's national security. In a democracy, such a huge policy question should *only* be decided by legislators elected by the people, not by unelected judges or administrative agencies.[101]

52. This public-policy context is absolutely relevant to these orders because it illustrates that the long-running controversy at this Commission over the use of GHG analyses in natural-gas certificate cases, whether it's a demand to quantify indirect impacts from upstream production and downstream use,[102] or a demand to apply an administratively-constructed metric such as the Social Cost of Carbon [103]—and then use GHG analyses to *reject* (or mitigate to death, or impose costly delays on) a gas project—has far less to do with the law itself and far more to do with promoting preferred *public policy* goals.

53. EPA admits as much in a remarkably (perhaps unwittingly) revealing passage in a letter to this Commission:

> EPA reaffirms the suggestion that the Commission avoid expressing project-level emissions as a percentage of national or State emissions. Conveying the information in this way *inappropriately diminishes* the significance of project-level GHG emissions. Instead, EPA continues to recommend disclosing *the increasing conflict between GHG emissions and national, State, and local GHG reduction policies and goals . . .*[104]

54. So according to EPA, this Commission—which is supposed to be *independent* of the current (or any) presidential administration, by the way—should literally manipulate how it presents GHG data in order to avoid ''inappropriately'' diminishing the impact. As EPA reveals, this is really not about data or any specific GHG metric at all, but is really about pursuing *public policy* goals, especially those of the current presidential administration that runs EPA.[105]

55. The EPA's purported guidance to this Commission illustrates that the real debate here is not over the minutiae of one methodology versus another, or whether one methodology is ''generally accepted in the scientific community'' and another is not,[106] or whether one particular esoteric formula is purportedly required by a regulation issued by the CEQ [107] and another does not meet the CEQ's directives.

56. The real debate over the use of GHG analyses in certificate proceedings is about public policy, not law, and ultimately comes down to these questions: *Who makes major decisions of public policy in our constitutional system?* Legislators elected by the people or unelected administrative agencies or judges? *Who decides?* [108]

III. Conclusions

57. Based on the analysis above the following legal conclusions can be drawn:

58. *First,* the Commission may not reject a certificate based solely on an estimate of the impacts of GHG emissions, indirect or direct. Nor, on the basis of such GHG estimates, may the Commission attach to a certificate (or coerce through deficiency letters) conditions that represent a *de facto* rejection by rendering the project financially or technically unfeasible.

59. *Second,* the Commission can consider the direct GHG impacts of the specific facility for which a certificate is sought, just as it analyzes other direct environmental impacts of a project, and can attach reasonable and feasible conditions to the certificate designed to reduce or minimize the direct GHG impacts caused by the facility, just as it does with other environmental impacts.

60. *Third,* the conditions the Commission can impose are, like its other powers, limited to the authorities granted to it by Congress and the purposes for which they are given. So, no, the Commission may not impose conditions on a certificate to mitigate upstream or downstream GHG emissions arising from non-jurisdictional activity.

61. These legal conclusions do not mean that responding to climate change is not a compelling policy necessity for the nation. In my view it is, as I stated above.[109]

62. However, neither my policy views—nor those of any other member of this Commission—can confer additional legal authority on FERC.[110] For in our democracy, it is the *elected* legislators who have the exclusive power to determine the major policies that respond to a global challenge such as climate change. Further, the argument that administrative agencies must enact policies to address major problems whenever Congress is too slow, too polarized, or too prone to unsatisfying compromises, must be utterly rejected.[111] That is not how it is supposed to work in a democracy.

63. For if democracy means anything at all, it means that the people have an inherent right to choose the legislators to whom the people grant the power to

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[101] *See Am. Lung Ass'n* v. *EPA,* 985 F.3d at 1003 (Walker, J., concurring in part and dissenting in part) (''whatever multi-billion-dollar regulatory power the federal government might enjoy, it's found on the open floor of an accountable Congress, not in the impenetrable halls of an administrative agency—even if that agency is an overflowing font of good sense.'') (citing U.S. Const. art I, section 1).

[102] GHG Policy Statement at PP 27–28, 31, & n.97. *See also,* EPA Dec. 20, 2021 Letter.

[103] GHG Policy Statement at P 96. *See also, e.g., Vecinos,* 6 F.4th at 1328–1329.

[104] EPA Dec. 20, 2021 Letter at 4 (emphases added).

[105] This Commission's independence reflects a conscious choice on Congress' part to insulate certain of its functions from the vicissitudes of political pressure. *See generally,* Sharon B. Jacobs, *The Statutory Separation of Powers,* 129 Yale L.J. 378 (2019) (explaining that some but not all of the Federal Power Commission's authorities were transferred to FERC, which was intended at least in part to counterbalance presidential influence). Succumbing to the pressure of EPA and others would sacrifice that crucial independence in meaningful ways.

[106] *Cf. Vecinos,* 6 F.4th at 1329.

[107] It has been observed that the values associated with the imputed social costs of GHG emissions have fluctuated dramatically from one administration to the next. *See, e.g.,* Garrett S. Kral, *What's In a Number: The Social Cost of Carbon,* Geo. Envtl. L. Rev. Online 1 (Aug. 19, 2021) (comparing the social cost of GHG emissions under the Trump administration with the interim social cost under the Biden administration and noting ''the value of SC–GHGs have fluctuated. A lot.''). This degree of abrupt fluctuation—*e.g.,* the social cost of carbon increasing from $7 per ton to $51 per ton—can only be explained by politics, not science.

[108] *NFIB,* 142 S. Ct. at 667 (Gorsuch, J. Concurring). (''The central question we face today is: *Who decides?*'') (emphasis added).

[109] *See* P 5 and n.12, *supra.*

[110] *Office of Consumers Counsel,* 655 F.2d at 1142 (''an agency may not bootstrap itself into an area in which it has no jurisdiction by violating its statutory mandate'') (quoting *FMC* v. *Seatrain Lines, Inc.,* 411 U.S. 726, 745 (1973)) (ellipsis omitted); *see also In re MCP No. 165,* 20 F.4th 264, 269 (6th Cir. 2021) (Sutton, C.J., dissenting) (''As the Supreme Court recently explained in invalidating an eviction moratorium promulgated by the Center for Disease Control, 'our system does not permit agencies to act unlawfully even in pursuit of desirable ends.' *Ala. Ass'n of Realtors,* 141 S. Ct. at 2490. Shortcuts in furthering preferred policies, even urgent policies, rarely end well, and *they always undermine, sometimes permanently, American vertical and horizontal separation of powers, the true mettle of the U.S. Constitution, the true long-term guardian of liberty.*'') (emphasis added).

[111] This argument is often put forth by the legal, academic, and corporate elites who assume that an administrative agency will enact the public policies they prefer when Congress will not. Such an expectation is perfectly rational since these elites disproportionately have the resources that are most effective in achieving desired outcomes in the administrative process, which is largely an insiders' game. The body of work on the economic theory of regulatory capture over the past half-century is relevant to this topic. *See generally,* Susan E. Dudley, *Let's Not Forget George Stigler's Lessons about Regulatory Capture,* Regulatory Studies Center (May 20, 2021) (available at *https://regulatorystudies.columbian.gwu.edu/let%E2%80%99s-not-forget-george-stigler%E2%80%99s-lessons-about-regulatory-capture*). And it is not just for-profit corporate elites at work here, so are other special interests who seek desired policy outcomes from administrative action rather than from the often messy and hard democratic processes of seeking to persuade voters to elect members of Congress who agree with you. *See, e.g.,* n. 97, *supra.*

decide the major questions of public policy that impact how the people live their daily lives. Unelected Federal judges and executive-branch administrators, no matter how enlightened they and other elites may regard themselves to be, do not have the power to decide such questions; they only have the power to carry out the duly-enacted laws of the United States, including the most important law of all, the Constitution. That is the basic constitutional framework of the United States and it is the same for any liberal democracy worth the name.

For these reasons, I respectfully dissent.

Mark C. Christie,

Commissioner.

[FR Doc. 2022–04148 Filed 2–28–22; 8:45 am]

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