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Presidential Documents

Title 3—

The President

Proclamation 10402 of May 24, 2022

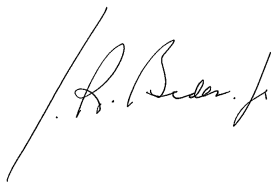
Honoring the Victims of the Tragedy in Uvalde, Texas

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of the senseless acts of violence perpetrated on May 24, 2022, by a gunman at Robb Elementary School in Uvalde, Texas, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, May 28, 2022. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

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



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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0140; Airspace Docket No. 22–ACE–6]

RIN 2120–AA66

Amendment of Class E Airspace; Kansas City, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Kansas City, MO. The FAA is taking this action as the result of a biennial airspace review.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: 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.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Kansas City International Airport, Kansas City, MO, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 16436; March 23, 2022) for Docket No. FAA–2022–0140 to amend the Class E airspace at Kansas City, MO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface within an 8.5-mile (increased from a 7.6-mile) radius of Kansas City International Airport, Kansas City, MO.

This action is necessary due to a biennial airspace review.

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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 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 MO E5 Kansas City, MO [Amended]

Kansas City International Airport, MO
(Lat. 39°17′51″ N, long. 94°42′50″ W)
Charles B. Wheeler Downtown Airport, MO
(Lat. 39°07′23″ N, long. 94°35′34″ W)
Charles B. Wheeler Downtown: RWY 03–LOC
(Lat. 39°07′40″ N, long. 94°35′17″ W)
Sherman Army Airfield (AAF), KS
(Lat. 39°22′03″ N, long. 94°54′52″ W)

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Kansas City International Airport; and within a 6.7-mile radius of Charles B. Wheeler Downtown Airport; and within 2 miles each side of the 215° bearing from the Charles B. Wheeler Downtown: RWY 03–LOC, extending from the 6.7-mile radius to 8.7 miles south of Charles B. Wheeler Downtown Airport; and within a 6.5-mile radius of Sherman AAF.

Issued in Fort Worth, Texas, on May 23, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–11304 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0229; Airspace Docket No. 22–ANE–2]

RIN 2120–AA66

Amendment of Class E Airspace; Rangeley, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Stephen A Bean Municipal Airport, Rangeley, ME, due to the decommissioning of the Rangeley non-directional beacon (NDB) and cancellation of associated approaches, as well as updating the airport's name and geographic coordinates. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: 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.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 16438, March 23, 2022) for Docket No. FAA–2022–0229 to amend Class E airspace extending upward from 700 feet above the surface for Stephen A Bean Municipal Airport, Rangeley, ME.

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

Class E airspace designations are published in Paragraph 6005 of FAA Order 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by amending Class E airspace extending upward from 700 feet above the surface at Stephen A Bean Municipal Airport, Rangeley, ME, due to the decommissioning of the Rangeley NDB and cancellation of associated approaches. This action increases the radius to 6.5 miles (previously 6.3 miles), and eliminates the southwest extension. This action also updates the airport's name to Stephen A Bean Municipal Airport (formerly Rangeley Municipal Airport), and updates the airport's geographic coordinates to coincide with the FAA's database.

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 the 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. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11F, 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.

* * * * *

ANE ME E5 Rangeley, ME [Amended]

Stephen A Bean Municipal Airport, ME
(Lat. 44°59′32″ N, long. 70°39′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stephen A Bean Municipal Airport.

Issued in College Park, Georgia, on May 23, 2022.

Andreese C. Davis,

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

[FR Doc. 2022–11350 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 589

Publication of Ukraine-/Russia-Related Web General Licenses 13Q and 13R

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of Web General Licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued in the Ukraine-/Russia-related sanctions program: GL 13Q, which was previously issued on OFAC's website and is now expired, and GL 13R, which was also previously issued on OFAC's website and had an expiration date of May 25, 2022.

DATES: GL 13R was issued on April 25, 2022. See **SUPPLEMENTARY INFORMATION** of this rule for additional relevant dates.

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

OFAC issued GL 13 on April 6, 2018 to authorize certain transactions necessary to divest or transfer debt, equity, or other holdings in certain entities, including GAZ Group, otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589 (which have since been renamed the Ukraine-/Russia-Related Sanctions Regulations). At the time of issuance, OFAC made GL 13, which had an expiration date of May 7, 2018, available on its website (*www.treas.gov/ofac*). Subsequently, OFAC issued further iterations of GL 13, all of which were available on OFAC's website. OFAC published GLs 13 through 13P in the **Federal Register** on July 28, 2021 (86 FR 40316, July 28, 2021).

On January 24, 2022, OFAC issued GL 13Q, replacing and superseding GL 13P. GL 13Q had an expiration date of April 27, 2022. On April 25, 2022, OFAC issued GL 13R, replacing and superseding GL 13Q. GL 13R had an expiration date of May 25, 2022. The text of GLs 13Q and 13R is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

GENERAL LICENSE NO. 13Q

Authorizing Certain Transactions Necessary To Divest or Transfer Debt, Equity, or Other Holdings in GAZ Group

(a) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589 (URSR), that are ordinarily incident and necessary (1) to divest or transfer debt, equity, or other holdings in GAZ Group to a non-U.S. person, or (2) to facilitate the transfer of debt, equity, or other holdings in GAZ Group by a non-U.S. person to another non-U.S. person, are authorized through 12:01 a.m. eastern daylight time, April 27, 2022.

(b) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the URSR that are ordinarily incident and necessary (1) to divest or transfer debt, equity, or other holdings in GAZ Group, or in entities in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, that were issued by GAZ Auto Plant (hereinafter, ''Other Issuer Holdings''), to a non-U.S. person; or (2) to facilitate the transfer of Other Issuer Holdings by a non-U.S. person to another non-U.S. person, are authorized through 12:01 a.m. eastern daylight time, April 27, 2022.

(c) The transactions and activities authorized in paragraphs (a) and (b) include facilitating, clearing, and settling transactions to divest to a non-U.S. person debt, equity, or other holdings in GAZ Group, or Other Issuer Holdings as described in paragraph (b), including on behalf of U.S. persons.

(d) This general license does not authorize:

(1) The unblocking of any property blocked pursuant to any other part of 31 CFR chapter V;

(2) U.S. persons to sell debt, equity, or other holdings to; to purchase or invest in debt, equity, or other holdings in; or to facilitate such transactions with, directly or indirectly, any person whose property and interests in property are blocked pursuant to 31 CFR part 589, including GAZ Group, other than purchases of or investments in debt, equity, or other holdings in those persons, or Other Issuer Holdings as

described in paragraph (b) (including settlement of purchases or sales that were pending on April 6, 2018), that are ordinarily incident and necessary to the divestment or transfer of debt, equity, or other holdings in GAZ Group, or Other Issuer Holdings as described in paragraph (b);

(3) Any transactions or dealings involving the property or interests in property of any person whose property and interests in property are blocked pursuant to 31 CFR part 589 other than GAZ Group, or any entity in which GAZ Group has a 50 percent or greater interest consistent with the authorization in paragraph (b) of this general license; or

(4) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V.

(e) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email (preferred) to *OFACReport@treasury.gov.*

(f) Effective January 24, 2022, General License No. 13P, dated December 23, 2020, is replaced and superseded in its entirety by this General License No. 13Q.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.
Dated: January 24, 2022.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

GENERAL LICENSE NO. 13R

Authorizing the Wind Down of Certain Transactions Necessary To Divest or Transfer Debt, Equity, or Other Holdings in GAZ Group

(a) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589 (URSR), that are ordinarily incident and necessary (1) to divest or transfer debt, equity, or other holdings in GAZ Group to a non-U.S. person, or (2) to facilitate the transfer of debt, equity, or other holdings in GAZ Group by a non-U.S. person to another non-U.S. person, are authorized through 12:01 a.m. eastern daylight time, May 25, 2022.

(b) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the URSR that are ordinarily incident and necessary to (1) divest or transfer debt, equity, or other holdings in GAZ Group, or in entities in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, that were issued by GAZ Auto Plant (hereinafter, ''Other Issuer Holdings''), to a non-U.S. person; or (2) facilitate the transfer of Other Issuer Holdings by a non-U.S. person to another non-U.S. person, are authorized through 12:01 a.m. eastern daylight time, May 25, 2022.

(c) The transactions and activities authorized in paragraphs (a) and (b) include facilitating, clearing, and settling transactions to divest to a non-U.S. person debt, equity, or other holdings in GAZ Group, or Other Issuer Holdings as described in paragraph (b), including on behalf of U.S. persons.

(d) This general license does not authorize:

(1) The unblocking of any property blocked pursuant to any other part of 31 CFR chapter V;

(2) U.S. persons to sell debt, equity, or other holdings to; to purchase or invest in debt, equity, or other holdings in; or to facilitate such transactions with, directly or indirectly, any person whose property and interests in property are blocked pursuant to 31 CFR part 589, including GAZ Group, other than purchases of or investments in debt, equity, or other holdings in those persons, or Other Issuer Holdings as described in paragraph (b) (including settlement of purchases or sales that were pending on April 6, 2018), that are ordinarily incident and necessary to the divestment or transfer of debt, equity, or other holdings in GAZ Group, or Other Issuer Holdings as described in paragraph (b);

(3) Any transactions or dealings involving the property or interests in property of any person whose property and interests in property are blocked pursuant to 31 CFR part 589 other than GAZ Group, or any entity in which GAZ Group has a 50 percent or greater interest consistent with the authorization in paragraph (b) of this general license; or

(4) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V.

(e) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email (preferred) to *OFACReport@treasury.gov.*

(f) Effective April 25, 2022, General License No. 13Q, dated January 24, 2022, is replaced and superseded in its entirety by this General License No. 13R.

Andrea M. Gacki
Director, Office of Foreign Assets Control.
Dated: April 25, 2022.

Andrea M. Gacki,
Director, Office of Foreign Assets Control

[FR Doc. 2022–11473 Filed 5–26–22; 8:45 am]
BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 589

Publication of Ukraine-/Russia-Related Web General Licenses 15K and 15L

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of Web General Licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued in the Ukraine-/Russia-Related sanctions program: GL 15K, which was previously issued on OFAC's website and is now expired, and GL 15L, which was also previously issued on OFAC's website and had an expiration date of May 25, 2022.

DATES: GL 15L was issued on April 25, 2022. See **SUPPLEMENTARY INFORMATION** of this rule for additional relevant dates.

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

OFAC issued GL 15 on May 22, 2018 to authorize certain transactions necessary for the maintenance or wind down of operations or existing contracts with GAZ Group, or entities in which GAZ Group owned, directly or indirectly, a 50 percent or greater interest, otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589 (which have since been renamed the Ukraine-/Russia-Related Sanctions Regulations). At the time of issuance, OFAC made GL 15, which had an expiration date of October 23, 2018, available on its website (*www.treas.gov/ofac*). Subsequently, OFAC issued further iterations of GL 15, all of which were available on OFAC's website. These iterations extended the period the authorizations in GL 15 remained in effect and broadened the scope of GL 15's authorizations. OFAC published GLs 15 through GL 15J in the **Federal Register** on July 28, 2021 (86 FR 40310, July 28, 2021).

On January 24, 2022, OFAC issued GL 15K, replacing and superseding GL 15J. GL 15K had an expiration date of April 27, 2022. On April 25, 2022, OFAC issued GL 15L, replacing and superseding GL 15K. GL 15L narrows the scope of GL 15K and had an expiration date of May 25, 2022. The text of GLs 15K and 15L is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

GENERAL LICENSE NO. 15K

Authorizing Certain Activities Involving GAZ Group

(a) Except as provided in paragraphs (c) and (d) of this general license, transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589 (URSR), that are ordinarily incident and necessary to the manufacture and sale of existing and new models of vehicles, components, and spare parts, including automobiles, light commercial vehicles, trucks, buses, engines/powertrains, produced by GAZ Group, or any entity in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, April 27, 2022, including:

- Research, design, development, production, modification, upgrade, certification, distribution, and marketing;
- Provision or receipt of services, including warranty, maintenance, logistics, storage, shipping, insurance, security, brokerage, legal, banking and financial (including financing and renegotiation of debt), technical and engineering, advertising, and customer services;
- Entry into joint ventures, contract manufacturing agreements, supplier contracts, and other new contracts associated with activities authorized by paragraph (a);
- Payment and receipt of dividends and other funds owed by or to GAZ Group relating to activities authorized by paragraph (a);
- The conduct of financial transactions associated with activities authorized by paragraph (a); and
- Activities necessary for compliance with paragraph (f)(1)(i), including financial auditing services.

(b) Except as provided in paragraphs (c) and (d) of this general license, all transactions and activities otherwise prohibited by the URSR that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving GAZ Group, or any other entity in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, and that were in effect prior to April 6, 2018, including the importation of goods, services, or technology into the United States, are authorized through 12:01 a.m. eastern daylight time, April 27, 2022.

(c) All funds in accounts of blocked persons identified in paragraphs (a) and (b) that were blocked as of 12:01 a.m. eastern daylight time, May 22, 2018, remain blocked, except that such funds may be used for the activities authorized by this general license.

(d) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraphs (a) and (b) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(e) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, via email to *OFACReport@treasury.gov* (preferred) or mail to Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

(f)(1) GAZ Group is required to provide the following information to OFAC:

(i) Audited financial statements and board meeting minutes for GAZ Group, reports of composition and changes to GAZ Group's Board of Directors, lists of any new joint ventures entered into by GAZ Group and any joint ventures under development by GAZ Group in which GAZ Group is a participant, and financing agreements entered into by GAZ Group valued at or exceeding $5 million U.S. dollars. This information must be reported within five days of the close of each calendar quarter.

(ii) Certification that GAZ Group is not acting for or on behalf of Mr. Oleg Deripaska or any other person included on OFAC's list of Specially Designated Nationals and Blocked Persons, and that control over the actions, policies, and decisions of the company rests with GAZ Group's Board of Directors and shareholders. This information must be reported within five days of the close of each calendar month.

(2) Information reported under paragraph (f)(1) of this general license must reference General License 15K and be sent via email to *OFACReport@treasury.gov* (preferred) or mail to Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

(g) Effective January 24, 2022 General License No. 15J, dated December 23, 2020, is replaced and superseded in its entirety by this General License No. 15K.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Dated: January 24, 2022.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

GENERAL LICENSE NO. 15L

Authorizing the Wind Down of Transactions Involving GAZ Group

(a) Except as provided in paragraph (b), all transactions and activities prohibited by the Ukraine Related

Sanctions Regulations, 31 CFR part 589 (URSR), that are ordinarily incident and necessary to the wind down of transactions involving GAZ Group, or any entity in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, May 25, 2022.

(b) This general license does not authorize:

(1) Any debit to an account of GAZ Group, or any entity in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, on the books of a U.S. financial institution; or

(2) Any transactions or activities otherwise prohibited by the URSR, or prohibited by any part of 31 CFR chapter V, statute, or Executive order, or involving any blocked person other than the blocked persons described in paragraph (a) of this general license.

(c) Effective April 25, 2022, General License No. 15K, dated January 24, 2022, is replaced and superseded in its entirety by this General License No. 15L.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Dated: April 25, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–11471 Filed 5–26–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0362]

Special Local Regulations; Marine Events Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Point Pleasant OPA/NJ Offshore Grand Prix from 10 a.m. through 5 p.m. on June 12, 2022, and for the Escape the Cape Swim from 7:30 a.m. through 11 a.m. on June 12, 2022. These actions are necessary to provide for the safety of life on navigable waterways during these events. Our regulation for marine events within the Fifth Coast Guard District identifies the regulated area for these events. 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 in 33 CFR 100.501 will be enforced for the regulated areas listed in Table 1 to Paragraph (i)(1) of § 100.501 for the Point Pleasant OPA/NJ Offshore Grand Prix from 10 a.m. to 5 p.m. on June 12, 2022 and for the Escape the Cape Swim from 7:30 a.m. to 11 p.m. on June 12, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Petty Officer Jennifer Padilla, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Jennifer.l.Padilla@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.501 for the regulated areas of the Point Pleasant OPA/NJ Offshore Grand Prix from 10 a.m. to 5 p.m. on June 12, 2022, and of the Escape the Cape Swim from 7:30 a.m. to 11 p.m. on June 12, 2022. These actions are being taken to provide for the safety of life on navigable waterways during these two events. Our regulation for marine events within the Fifth Coast Guard District, § 100.501, specifies the location of the regulated area for the Point Pleasant OPA/NJ Offshore Grand Prix which encompasses portions of Atlantic Ocean off Point Pleasant Beach, NJ and for the Escape the Cape Swim which encompasses portions of the Delaware Bay off Lower Township, NJ. During the enforcement periods, as reflected in § 100.100(g), 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.

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: May 19, 2022.

Jonathan D. Theel,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2022–11371 Filed 5–26–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0358]

RIN 1625–AA00

Safety Zone; Candice Jones Wedding Fireworks; Oswego River; Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 150-foot radius of land launched fireworks over Oswego River in Oswego, NY. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo or a designated representative.

DATES: This rule is effective from 8:15 p.m. through 9:45 p.m. on May 28, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0358 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Anthony Urbana, Sector Buffalo, U.S. Coast Guard; telephone 716–843–9342, email *D09-SMB-SECBuffalo-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C.

553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because the event sponsor did not submit notice of the fireworks display to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable by preventing the Coast Guard from protecting spectators and vessels from the hazards associated with this fireworks display.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable because we must establish this safety zone by May 28, 2022.

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 (COTP) Buffalo has determined that fireworks over the water presents significant risks to public safety and property within a 150-foot radius of the launch point. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display is taking place.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:15 p.m. through 9:45 p.m. on May 28, 2022. The safety zone will cover all navigable waters within a 150-foot radius of land launched fireworks over Oswego River in Oswego, NY. The duration of the zone is intended to protect spectators, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP Buffalo or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone will encompass a 150-foot radius from the land-launched fireworks in the Oswego River in Oswego, NY, with the event lasting approxiamately 1.5 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow 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 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 1.5 hours that will prohibit entry within a 150-foot radius in Oswego River in Oswego, NY. for a fireworks display. 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: 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.T09–0358 to read as follows:

§ 165.T09–0358 Safety Zone; Candice Jones Wedding Fireworks; Oswego River; Oswego, NY.

(a) *Location.* The following area is a safety zone: All waters of the Oswego River, from surface to bottom, encompassed by a 150-foot radius around 43°27′36.80″ N, 076°30′43.52″ W.

(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 Buffalo (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP Buffalo or a designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP Buffalo or his designated representative to obtain permission to do so. The COTP Buffalo or his designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Buffalo, or his designated representative.

(d) *Enforcement period.* The regulated area described in paragraph (a) is effective from 8:15 p.m. through 9:45 p.m. on May 28, 2022.

Dated: May 16, 2022.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2022–11448 Filed 5–26–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0410]

Safety Zones; Fireworks Displays in the Fifth Coast Guard District

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Delaware River, Philadelphia, PA; Safety Zone from 9 p.m. through 10 p.m. on May 29, 2022, to provide for the safety of life on navigable waterways during the Rivers Casino fireworks event. Our regulation for marine events within the Fifth Coast Guard District identifies the regulated area for this event in Philadelphia, PA. During the enforcement period, 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 regulation in table 1 to paragraph (h)(1) to 33 CFR 165.506, entry 10 will be enforced 9 p.m. through 10 p.m. on May 29, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, you may call or email Petty Officer Jennifer Padilla, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Jennifer.l.Padilla@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in table 1 to paragraph (h)(1) to 33 CFR 165.506, entry 10 for the Rivers Casino Fireworks display 9 p.m. through 10 p.m. on May 29, 2022. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays within the Fifth Coast Guard District, table 1 to paragraph (h)(1) to 33 CFR 165.506, entry 10 specifies the location of the regulated area as all waters of Delaware River, adjacent to Penn's Landing, Philadelphia, PA, within 500 yards of the fireworks barge position. The approximate position for the display is latitude 39°57′39″ N, longitude 075°07′45″ W. During the enforcement period, as reflected in § 165.506(d), vessels may not enter, remain in, or transit through the safety zone unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on-scene.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via broadcast notice to mariners.

Dated: May 19, 2022.

Jonathan D. Theel,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2022–11468 Filed 5–26–22; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Nonsubscriber Cap for In-County Periodicals

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: On April 6, 2022, the Postal Service Reform Act of 2022 was signed into law. Section 204 of that Act raised the annual cap on the number of copies that a Periodicals publisher can send to nonsubscribers at In-County rates from 10 percent of the number of copies sent to subscribers at In-County rates to 50 percent. This final rule contains revisions to *Mailing Standards of the*

United States Postal Service, Domestic Mail Manual (DMM®), to implement the change.

DATES: Effective May 27, 2022.

FOR FURTHER INFORMATION CONTACT: Doriane Harley at (202) 268–2537, Jacqueline Erwin at (202) 268–2158 or Dale Kennedy at (202) 268–6592.

SUPPLEMENTARY INFORMATION: Section 204 of the Postal Service Reform Act raised the annual cap on the number of copies that a Periodicals publisher can send to non-subscribers at In-County rates from 10 percent of the number of copies sent to subscribers at In-County rates to 50 percent. Section 204, however, left unchanged the existing 10 percent cap on non-subscriber copies sent at Outside-County rates and on non-subscriber copies sent at Preferred Outside-County rates (*e.g.,* rates for authorized nonprofit, classroom, limited circulation publications, etc.). The Postal Service is amending DMM section 207.7 accordingly.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Mail

* * * * *

207 Periodicals

* * * * *

7.0 Mailing to Nonsubscribers or Nonrequesters

* * * * *

7.6 Expired Subscription

[Revise the second sentence in 7.6 to read as follows:]

* * * These copies are not considered subscriber copies for determining eligibility for Periodicals mailing privileges, the base for computing the nonsubscriber limits under 7.9.1 to 7.9.3, or whether an issue is a bona fide issue under 8.0.

* * * * *

7.9 Nonrequester and Nonsubscriber Copies

[Revise 7.9.1 through 7.9.3 to read as follows:]

7.9.1 Outside County Prices

For authorized Periodicals subscriber and requester publications, up to 10% of the total number of copies mailed to subscribers or requesters during the calendar year may be mailed to nonsubscribers or nonrequesters at the Outside-County Periodicals prices, provided that those copies would be eligible for Outside-County prices if mailed to subscribers or requesters, and if the copies are presorted under applicable standards. Nonsubscriber or nonrequester copies within the 10% limit do not need to be commingled in a mailing with subscriber or requester copies to be eligible for Outside-County prices. Nonsubscriber or nonrequester copies over the 10% limit are eligible for Outside County prices when commingled and presorted with subscriber or requester copies but otherwise pay appropriate non-Periodicals prices.

7.9.2 Preferred Prices

For Nonprofit, Classroom, Science-of-Agriculture, Limited Circulation, and Limited Circulation Science-of-Agriculture publications, nonsubscriber (for Periodicals except requester publications) or nonrequester (for requester publications) copies up to 10% of the total number of copies mailed to subscribers or requesters during the calendar year may be mailed at the applicable Preferred prices or Preferred price discount, provided that the nonsubscriber or nonrequester copies would qualify as Preferred price or Preferred price discount publications if mailed to subscribers or requesters and if the copies are presorted under applicable standards. Nonsubscriber or nonrequester copies mailed over the 10% limit are not eligible for Preferred prices or the Preferred price discount. To qualify for regular Outside County prices, the nonsubscriber or nonrequester copies over the 10% limit must be part of a presorted, commingled mailing (one that includes subscriber or requester copies). These copies otherwise pay appropriate non-Periodicals prices.

7.9.3 In-County Prices

Subject to 11.3, nonsubscriber or nonrequester copies may be mailed at In-County prices up to a 50% limit of the total number of subscriber or requester copies of the publication mailed at In-County prices during the calendar year. Once the 50% calendar year limit is exceeded, the nonsubscriber or nonrequester copies may not be mailed at In-County prices.

* * * * *

[Revise 7.9.5 to read as follows:]

7.9.5 Mixed Preferred and Regular Outside-County Prices

Once the total number of nonsubscriber or nonrequester copies mailed during the calendar year exceeds the applicable calendar year limit under 7.9.1 or 7.9.2, further mailings of nonsubscriber or nonrequester copies are not eligible for the relevant Preferred price. Nonsubscriber or nonrequester copies over the 10% allowance under 7.9.1 or 7.9.2 must be part of a presorted commingled mailing (*i.e.,* including subscriber or requester copies) to qualify for Outside-County prices.

* * * * *

[Remove 7.9.6; renumber 7.9.7 and 7.9.8 as 7.9.6 and 7.9.7, respectively; and revise 7.9.6 and 7.9.7 (as renumbered) to read as follows:]

7.9.6 Excess Noncommingled Mailing

A mailing is not eligible for Periodicals prices if it consists entirely of nonsubscriber or nonrequester copies over the applicable limit under 7.9.1 through 7.9.3. These copies are subject to appropriate non-Periodicals prices.

7.9.7 Mixed Mailing

If all copies in a mailing are to nonsubscribers or nonrequesters and some copies are within the applicable limit under 7.9.1 through 7.9.3 while the rest are over that limit, the excess copies are not eligible for Periodicals prices. The excess copies are subject to appropriate non-Periodicals prices.

* * * * *

11.0 Basic Eligibility

* * * * *

11.3 In-County Prices

* * * * *

11.3.2 Exceptional Conditions

* * * * *

[Revise the text of 11.3.2c to read as follows:]

c. A Periodicals publication having original entry at an incorporated city situated entirely within a county or contiguous to one or more counties in the same state, but politically independent of such county or counties, is considered within a part of the county with which it is principally contiguous. Copies (except commingled nonsubscriber copies above 50% under 7.9.3) mailed into that county are charged at In-County prices. Where more than one county is involved, the publisher selects the principal county and notifies the Postmaster.

* * * * *

11.3.3 Nonsubscriber or Nonrequester Copies

[Revise the text of 11.3.3 to read as follows:]

During a calendar year, the total number of nonsubscriber or nonrequester copies mailed at In-County prices may not exceed 50% of the number of subscriber or requester copies mailed at In-County prices, as under 7.9.3.

* * * * *

Sarah E. Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–11522 Filed 5–25–22; 11:15 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2022–0236; FRL–9605–02–R7]

Air Plan Approval; Missouri; Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend a Missouri regulation that controls emissions from facilities in St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties. The revisions to this rule include amending the rule applicability section for sources subject to the rule, removing unnecessary words, updating incorporations by reference, amending definitions specific to the rule, updating test and reference methods and other minor edits. These revisions meet the requirements of the Clean Air Act (CAA) and do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between State and federally approved rules.

DATES: This final rule is effective on June 27, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2022–0236. All documents in the docket are listed on the *https://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 through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jason Heitman, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7664; email address: *heitman.jason@epa.gov*.

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

Table of Contents

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is the EPA taking?
IV. Incorporation by Reference
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I. What is being addressed in this document?

The EPA is taking final action to approve revisions to 10 Code of State Regulations (CSR) 10–5.550, Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry, in the Missouri SIP. On March 25, 2022, the EPA published a notice of proposed rulemaking (NPRM) which proposed to approve the SIP revision as submitted by Missouri on February 11, 2020 (87 FR 17058). The revisions amend the rule applicability section for sources subject to this rule, remove unnecessary words, update incorporations by reference, amend definitions specific to the rule, update test and reference methods, and make other minor edits. More detail on the EPA's analysis of the revisions can be found in the NPRM and technical support document (TSD) included in this docket.

II. Have the requirements for approval of a SIP revision been met?

The State's submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from May 1, 2019, to August 1, 2019, and received nine comments. The State revised the rule based on the comments submitted. In addition, as explained in more detail in the NPRM and technical support document (TSD) which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

On March 25, 2022, the EPA published a NPRM proposing to approve Missouri's February 11, 2020, SIP revision submittal (87 FR 17058). The EPA sought public comment on the NPRM and received no comments. Therefore, the EPA is taking final action to amend the Missouri SIP to include revisions to 10 CSR 10–5.550, Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry. Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM and the TSD, the EPA has determined that these changes meet the requirements of the Clean Air Act and will not adversely impact air quality or the stringency of the SIP.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Regulations described in Section I of this preamble and set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the 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 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).
- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).
- 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 July 26, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 20, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–5.550'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control				
Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.550	Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry.	1/30/2020	5/27/2022, [insert **Federal Register** citation].	

[1] 62 FR 27968, May 22, 1997.

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
*	*	*	*	*	*	*

* * * * *

[FR Doc. 2022–11349 Filed 5–26–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA–R09–OAR–2021–0962; FRL–9400–03–R9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because the Environmental Protection Agency (EPA) received public comment, which we intend to address, we are withdrawing the direct final rule for Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona and California published on March 31, 2022. The EPA will take a final action on the proposed action in a separate subsequent final rulemaking.

DATES: As of May 27, 2022, the EPA withdraws the direct final rule published at 87 FR 18705, on March 31, 2022.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4152 or by email at *buss.jeffrey@epa.gov.*

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

Because the Environmental Protection Agency (EPA) received a public comment that we intend to address, we are withdrawing the direct final rule for Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona and California published on March 31, 2022 (87 FR 18705). We stated in that direct final rule that if we received adverse comment by May 2, 2022, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received one comment on that direct final rule that we intend to address. We will address this comment in a subsequent final action, which will be based on the parallel proposed rule also published on March 31, 2022 (87 FR 18760). As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

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

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

Accordingly, the EPA withdraws the direct final rule published at 87 FR 18705, on March 31, 2022.

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

Dated: May 23, 2022.

Elizabeth Adams,

Director, Air and Radiation Division, Region IX.

[FR Doc. 2022–11461 Filed 5–26–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 305

RIN 0970–AC86

Paternity Establishment Percentage Performance Relief

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: Due to the impact of the COVID–19 public health emergency (PHE) on State child support program operations, OCSE modifies the Paternity Establishment Percentage (PEP) from the 90 percent performance threshold to 50 percent for Federal Fiscal Years (FFY) 2020, 2021, and 2022 in order for a State to avoid a financial penalty. OCSE also provides that adverse findings of data reliability audits of a State's paternity establishment data will not result in a financial penalty in FFYs 2020, 2021, and 2022.

DATES: This rule is effective on May 27, 2022.

FOR FURTHER INFORMATION CONTACT: Kimberly Smith, Senior Advisor, OCSE Division of Policy and Training, at *ocse.dpt@acf.hhs.gov* or (202) 401–5679. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This rule is published under the authority granted to the Secretary of Health and Human Services by section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). Section 1102 of the Act authorizes the Secretary to publish regulations not inconsistent with the Act as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act. The relief from the PEP performance penalty under this rule is based on statutory authority granted under section 452(g)(3)(A) of the Act (42 U.S.C. 652(g)(3)(A)).

II. Background

This rule provides targeted and time-limited relief to States from penalties due to the impact of the national PHE caused by COVID–19 on State program performance. The pandemic has had an enormous adverse impact on child support services delivered by States under title IV–D of the Act, especially on paternity/parentage establishment, a core function of the child support program under section 452(a)(1) of the Act.

A State's paternity establishment performance, measured using the PEP, is a federally required performance measure under section 452(g) of the Act. Penalties related to the PEP performance measure are imposed as a reduction in the Temporary Assistance for Needy Families (TANF) program funding to States.

Section 452(g)(3) of the Act authorizes the Secretary ''to take into account such additional variables as the Secretary

identifies (including the percentage of children in a State who are born out of wedlock or for whom support has not been established) that affect the ability of a State to meet the [PEP performance measures] requirements of [section 452(g) of the Act].'' The effect of the COVID–19 PHE on States is one such additional variable due to the unprecedented nature and scope of the pandemic's impact on the child support program.

FFY 2020 data indicated PEP performance declined for 41 States during the pandemic, with approximately one-third of States subject to a financial penalty if they did not take sufficient corrective action in FFY 2021. FFY 2021 preliminary data indicate that nine of the States that faced a financial penalty for PEP performance for FFY 2020, along with four new States, would be assessed penalties without this rule.

In this rule, OCSE modifies the required PEP to a lower performance threshold of 50 percent for FFYs 2020, 2021, and 2022 and sets aside adverse data reliability audit findings related to PEP. This allows States that are not able to meet the PEP performance measure and data reliability audit requirements to avoid the financial penalty for FFYs 2020, 2021, and 2022 when the pandemic had its greatest impact on the child support program. Based on preliminary performance data submitted by States for FFY 2020 and 2021, a PEP level of 50 percent will ensure that no State will be subject to a financial penalty while State agency operations are disrupted due to the ongoing PHE.

This rule is time-limited and data-informed to provide relief narrowly and specifically in response to the ongoing PHE for FFYs 2020, 2021, and 2022. After the relief period, starting for FFY 2023, the PEP performance thresholds will revert back to the usual levels described under section 452(g) of the Act and 45 CFR 305.40(a)(1), and States will once again be subject to penalties for adverse data reliability audit findings related to the PEP measure after an automatic corrective action year as specified in 45 CFR 305.42.

The relief in this final rule maintains the integrity of the system of performance, audit, penalties, and incentives that has driven success and accountability in the child support program for over two decades. The regulation provides relief from the PEP measure and data reliability audit penalties but does not otherwise change the process for other performance measures, data collection, and reporting, audits, or incentives.

III. Summary Description of the Regulatory Provision

The notice of proposed rulemaking (NPRM) was published in the **Federal Register** on October 19, 2021 (86 FR 57770 through 57773). The comment period ended November 18, 2021.

OCSE received 26 sets of comments from States, organizations, and other interested entities and individuals, which were posted on *www.regulations.gov.*

Section 305.61: Penalty for Failure To Meet IV–D Requirements

In the NPRM, we proposed to add a new provision to Part 305, ''Program Performance Measures, Standards, Financial Incentives and Penalties,'' to provide short-term relief from financial penalties related to the PEP measure due to the impact of the COVID–19 PHE on State IV–D operations. Specifically, we proposed adding a new paragraph (e) to § 305.61, ''Penalty for failure to meet IV–D requirements,'' to modify the criteria by which States are subject to financial penalties for the PEP requirements. The modified criteria are that the acceptable performance level of PEP measure under § 305.40(a)(1) is reduced from 90 percent to 50 percent and the adverse findings of data reliability audits of a State's paternity establishment data under § 305.60 will not result in a financial penalty. The modifications, as proposed, are applicable to FFYs 2020 and 2021. In the NPRM, we specifically requested public comment on the timeframe for the relief and whether the relief period should be extended to include FFY 2022.

The vast majority of commenters supported the proposed relief and supported the extension of the timeframe to FFY 2022. We received one comment from an individual opposed to the regulation all together and a comment supporting the relief but not the extension of the relief period to FFY 2022. In drafting the final rule, the following are OCSE's Response to Comments including the rationale for any changes made to the proposed rule and a final summary of regulatory changes. In addition, for clarity and emphasis, in the final rule, OCSE also added a reference to 452(g)(A) of the Act, which is the specific statutory cite that provides the Secretary with discretionary authority to modify the required PEP level.

IV. Response to Comments

Comment 1: State agencies, child support organizations, child support professionals, and other entities and individuals who submitted comments were unequivocal in their support of the proposed relief and rationale described in the NPRM.

One commenter agreed with the conclusion in the NPRM that across-the-board State reductions in the PEP levels in FFY 2020 are directly attributable to the pandemic, based on performance trends for the last 10 years. Up until FFY 2020, almost all States achieved PEP levels above 90 percent each year.

Most commenters mentioned the variety of impacts of the pandemic on the ability to obtain voluntary acknowledgments of paternity. For example, one commenter described multiple effects of the pandemic on voluntary acknowledgment processes: (1) Restrictions preventing fathers access to the hospital after a mother gives birth; (2) closure of local vital statistics offices; (3) restrictions preventing hospital access by State staff and contractors who provide training, technical assistance, and monitoring to hospital staff administering voluntary paternity programs; and (4) staffing shortages resulting in hospital staff sending paternity acknowledgment paperwork home with the mother rather than completing it at the hospital.

One commenter described the compounded performance problem in their State because their program has historically had a very strong in-hospital, voluntary acknowledgment program. In this State, children whose paternity was not acknowledged through the in-hospital program due to pandemic restrictions must now be acknowledged at the city or town municipality or through the judicial process. These latter processes are more complex, may involve fees, take longer, and also are impacted by the pandemic.

Most commenters, especially from States with judicial-based child support programs, described the large and ongoing impact of the pandemic on court systems, where courts were initially closed and legal actions delayed, and where backlogs persist. One commenter noted that even as the courts and child support offices have shifted to virtual processes, the new mode of working has reduced productivity in some jurisdictions. Also, the pandemic has reduced in-person office visits, administrative proceedings, and court hearings.

Several commenters noted the disruption to genetic testing programs due to child support office closures, court closures, and staffing shortages. One commenter noted the challenge of being able to access alternate testing sites, such as prisons and correctional facilities. A commenter described the

efforts to relocate their State's genetic testing services from courthouses in response to the pandemic and noted that genetic testing appointment attendance rates for alleged fathers declined 20 percent and for mothers declined 24 percent, compared to pre-pandemic rates. A commenter noted that genetic testing programs were also impacted because clinical laboratory resources were diverted for pandemic-related testing.

Commenters also described other kinds of barriers that impacted PEP performance. One State commenter described that they are unable to legally serve parties by mail, as certified mail is now being marked ''COVID–19'' and found insufficient for legal service. Two commenters noted that the pandemic suspension of cooperation requirements for TANF recipients has removed an important tool that incentivized recipients to attend appointments necessary for paternity establishment.

Notably, several States that will not be subject to PEP penalties, either because they met PEP performance during the pandemic or they expect to meet performance in the corrective action year, support providing the relief to other States under these pandemic circumstances.

Several commenters particularly noted the need for the relief to be finalized as soon as possible to help States plan resources during these challenging times. One commenter discussed the additional costs to programs to respond to the disaster and that the demand of meeting PEP standards, which has always been challenging, places further stress on the programs. Confirmation of penalty relief in this rule would allow programs to focus on recovery and restoration of pre-pandemic performance. One commenter noted their State had requested PEP penalty relief from OCSE early in the pandemic under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) (See OCSE Dear Colleague Letter 20–04: Flexibilities for State and Tribal Child Support Agencies during COVID–19 Pandemic). However, the Stafford Act flexibilities do not extend to relief for financial penalties related to performance or adverse data reliability audit findings.

Response 1: Based on the overwhelming support for the proposed relief from penalties related to the PEP measure, for the reasons described in the NPRM and by the majority of commenters, OCSE agrees that this relief is needed and should be provided. The COVID–19 pandemic is unprecedented; time-limited, targeted relief from PEP-related performance penalties is appropriate.

Comment 2: One individual opposed the relief, disagreeing that COVID–19 was a reason for reducing the PEP performance threshold to 50 percent. The commenter stated that this relief was not needed in other pandemics and State child support agencies should try like everyone else to work virtually or even go back to mailing in the genetic tests. Finally, the commenter stated this relief is unfair to children who would be left without a sense of comfort.

Response 2: We disagree. As noted by the majority of commenters, there are a number of operational challenges that justify this temporary modification of the required PEP levels.

Comment 3: In support of the proposed relief, two commenters stated that States should not be subject to PEP performance penalties during the pandemic because these are circumstances beyond the States' control.

Response 3: OCSE clarifies that this relief is appropriate in response to the nationwide COVID–19 pandemic. Other future events or actions, including future pandemics, that create circumstances beyond a State's control may not necessarily require this extraordinary regulatory response. The current child support performance, audit, penalties, and incentives system is designed to drive performance. States that experience individual challenges that impact performance, whether these challenges are within or outside the States' immediate control, are motivated to recover from setbacks and strive to achieve performance goals, as States have over the last two decades. This time-limited and targeted relief is a one-time response to the unprecedented COVID–19 pandemic.

Comment 4: A few States noted the importance of not imposing PEP penalties because of the direct impact on State TANF funds that support families who may be especially in need during the pandemic. One State TANF agency commented on how the reduction in the TANF grant will directly harm families, despite the TANF agency's continued efforts to work closely with the State's child support agency to facilitate paternity establishment for their service recipients.

Response 4: Under section 409(a)(12) of the Act and 45 CFR 262.1(e)(1), a performance penalty imposed against a State's TANF grant would not result in an overall reduction in the State's TANF funding that is available to public assistance recipients because the state is required to make up the missing federal dollars with State funds. Rather, the requirement on States to make up this funding will put a strain on State public assistance and social services budgets overall, which will impact families needing assistance.

Comment 5: Twenty-three commenters supported extending the timeframe for the relief from penalties related to PEP performance and from adverse findings of data reliability audits of a State's paternity establishment data. The majority supported the extension as described in the proposed rule to include FFY 2022.

Most commenters noted that the pandemic continues to impact child support operations, especially the operations necessary for paternity establishment, and expected the impact to last well into FFY 2022. One commenter expected the following issues to persist into FFY 2022: Backlogs with courts and vital statistics agencies; low DNA sample collection due to families missing appointments; suspension of TANF recipient cooperation requirements; and disruption of voluntary acknowledgment processes at hospitals and birthing centers, resulting in paperwork being sent home and delays in families processing them. Two commenters noted that an extension is appropriate since the national PHE currently extends to January 2022 (at the time of the comment).

Commenters stated that there is no definitive end to the pandemic in the foreseeable future, that the end of the pandemic is uncertain, and that States being able to return to 90 percent PEP levels in FFY 2022 is not realistic, given the ongoing challenges. According to one commenter, it will take at least the remainder of FFY 2022 to work through backlogs in courts and agency offices of paternity cases, and this situation is especially acute in court systems where other types of cases have been prioritized over child support cases. According to another commenter, some States have indicated that the cumulative effects of the pandemic may result in a further decrease in their PEP levels in FFY 2021, and this negative momentum is likely to carry over in FFY 2022 and possibly beyond.

One State commented that because the PHE has been extended to at least the beginning of the second quarter of FFY 2022, the impact of the pandemic will affect States' abilities to establish paternity for at least half of the performance year. The Delta variant, according to several commenters, is adversely impacting State programs into FFY 2022. One commenter stated that the Delta variant appeared just as the

pandemic seemed to be abating, caused a spike in cases and reimposition of pandemic restrictions, and that it is too early to tell if a new variant will surface and cause more disruption.

Several State commenters from States that did not expect to be subject to PEP penalties during the pandemic period strongly supported or saw no harm in extending the relief to FFY 2022 for other States.

Response 5: OCSE supports extending the proposed relief period to include FFY 2022 for the reasons described by the commenters due to initial indications from FFY 2021 performance data that the pandemic continues to adversely affect paternity establishment performance, and in order to give States more time to plan and adjust for the resumption of operation and performance standards.

According to OCSE's preliminary FFY 2021 data, 13 of the 54 State child support programs (the 54 programs include the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands) appear to have failed to meet the 90 percent PEP performance threshold. These include 9 States that previously failed to meet the 90 percent threshold in FFY 2020 and 4 new States that met PEP performance thresholds in FFY 2020 but failed in FFY 2021.

These data show that the pandemic continues to have an oversized and ongoing impact on States' abilities to establish paternity and meet performance thresholds. Not only were half of the 18 States that failed to meet performance in FFY 2020 unable to recover their performance in the subsequent year, but four additional States failed, despite having achieved PEP performance thresholds the year before. In addition, the PHE, first declared on January 31, 2020, was extended again on January 14, 2022, effective January 16, 2022.[1]

In order to allow States more time to plan and adjust to regain performance standards, given the ongoing, unpredictable nature of the pandemic, including the fast spread of successive COVID–19 variants, OCSE agrees it is appropriate to extend the relief period to include performance for FFY 2022.

Comment 6: One commenter opposed the relief entirely for any time period, as noted in comment 2, and one commenter, who supported the relief for the proposed period of FFYs 2020 and 2021, opposed the extension to FFY 2022. According to this latter commenter, States inform them that paternity establishment operations are fully operational and that it is incumbent on HHS to return to normal operations and hold States accountable for program operations, including paternity establishment, which is a central function. The commenter recommended limiting relief to when State operations were most impacted by pandemic restrictions.

Response 6: OCSE disagrees and will extend the relief to FFY 2022 due to the unprecedented nature of the pandemic and to allow States more time to plan and adjust. However, after the relief period, starting for FFY 2023, the PEP performance thresholds will revert back to the usual levels, and States will again be responsible for performance and subject to penalties for adverse data reliability audit findings related to the PEP measure after an automatic corrective action year.

Comment 7: Several commenters suggested extending the relief beyond FFY 2022. One commenter suggested an option for an extension into FFY 2023 if circumstances warrant, and others requested flexibility to extend the relief into the future as needed or for any future FFY in which the country remains under a PHE due to COVID–19. Another, citing the possibility of the rise of a new variant and general uncertainty, suggested that the Secretary of HHS be given the authority to extend penalty relief in future years without the need to issue another regulation. This commenter said that there is strong justification to extend the relief through FFY 2022, after which we can review the need for further action and whether the Secretary could continue to extend the relief if the pandemic and States' need for relief are ongoing.

Response 7: OCSE agrees to extend the relief through FFY 2022 to provide States one additional year. However, the relief must be time-limited and targeted.

Comment 8: One State suggested that for the extension year, FFY 2022, the PEP threshold be modified from 90 percent to 75 percent, instead of the 50 percent proposed in the rule. The commenter reasoned that 75 percent is at the low end of the level just below 90 percent in 45 CFR 305.40(a)(1) and allows States that are still working through paternity establishment challenges to gradually increase performance rather than meet a more rigorous 90 percent level.

Response 8: For the reasons discussed in the previous comments and responses and for simplicity, OCSE will provide the same modification levels in extending the relief to FFY 2022 as provided for the first 2 years of the relief.

Comment 9: A commenter suggested that States that have met or exceeded the 90 percent performance threshold during the pandemic period receive an incentive, such as not having a full paternity establishment audit for FFY 2021 and FFY 2022.

Response 9: OCSE proposed regulatory relief in response to COVID–19 that is narrowly targeted towards relieving States of PEP-related penalties and does not include other forms of relief or incentives.

Summary of Regulatory Changes: For the reasons described above and in careful consideration of the comments, we finalize 45 CFR 305.61(e) by extending the relief period to FFY 2022 and referencing the specific statutory cite that provides the Secretary with discretionary authority to modify the required PEP level, 452(g)(A) of the Act.

V. Regulatory Review

Paperwork Reduction Act

No new information collection requirements are imposed by these regulations.

Regulatory Flexibility Analysis

The Secretary certifies that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Regulatory Flexibility Act.

Regulatory Impact Analysis

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule meets the standards of Executive Order 13563 because it creates a short-term public benefit, at minimal cost to the Federal Government, by not imposing penalties against a State's TANF grant, during a time when public assistance funds are critically needed.

[1] The determination that a PHE exists due to COVID–19 was first issued on January 31, 2020 and has been renewed every 90 days under section 319 of the Public Health Service Act (42 U.S.C. 247d). See Renewal of Determination That A Public Health Emergency Exists, dated January 14, 2022, available at: *https://aspr.hhs.gov/legal/PHE/Pages/COVID19-14Jan2022.aspx.*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this final rule is significant and was accordingly reviewed by OMB.

ACF determined that the costs to title IV–D agencies as a result of this rule will not be ''economically significant'' as defined in Executive Order 12866 (have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities). Accordingly, OIRA has determined that this rulemaking is ''not major'' under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act).

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation). That threshold level is currently approximately $164 million. This rule does not impose any mandates on State, local, or tribal governments, or the private sector, that will result in an annual expenditure of $164 million or more.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This regulation does not impose requirements on States or families. This regulation will not have an adverse impact on family well-being as defined in the legislation.

Executive Order 13132

Executive Order 13132 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 the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism impact as defined in the Executive Order.

January Contreras, Assistant Secretary of the Administration for Children and Families, approved this document on May 5, 2022.

List of Subjects in 45 CFR Part 305

Child support, Program performance measures, standards, financial incentives, and penalties.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

Dated: May 23, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

For the reasons discussed in the preamble, the Department of Health and Human Services amends 45 CFR part 305 as set forth below:

PART 305—PROGRAM PERFORMANCE MEASURES, STANDARDS, FINANCIAL INCENTIVES, AND PENALTIES

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 609(a)(8), 652(a)(4) and (g), 658a, and 1302.

■ 2. In § 305.61 add paragraph (e) to read as follows:

§ 305.61 Penalty for failure to meet IV–D requirements.

* * * * *

(e) *COVID–19 paternity establishment percentage penalty relief.* Due to the adverse impact of the COVID–19 pandemic on State IV–D operations, the criteria by which States are subject to financial penalties for the paternity establishment percentage under paragraph (a) of this section are modified for fiscal years 2020, 2021, and 2022, in accordance with section 452(g)(A) of the Act, as follows:

(1) The acceptable level of paternity establishment percentage performance under § 305.40(a)(1) is modified for fiscal years 2020, 2021, and 2022 from 90 percent to 50 percent, and

(2) The adverse findings of data reliability audits of a State's paternity establishment data under § 305.60 will not result in a financial penalty for fiscal years 2020, 2021, and 2022.

* * * * *

[FR Doc. 2022–11391 Filed 5–26–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02;RTID 0648–XC021]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the General category daily retention limit from one large medium or giant Atlantic bluefin tuna (BFT) to three large medium or giant BFT. This daily retention limit applies to Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. This adjustment will be effective for the June through August subquota time period until further modified.

DATES: Effective June 1, 2022, through August 31, 2022, or until NMFS announces in the **Federal Register** another adjustment to the retention limit.

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

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

Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,247.86 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The General category baseline quota is 555.7 mt. This baseline quota is further subdivided into subquotas by time period. The June through August subquota time period is 277.9 mt. Although the 2021 ICCAT recommendation regarding western Atlantic BFT management would result in an increase to the baseline U.S. BFT quota (*i.e.,* from 1,247.86 mt to 1,316.14 mt) and subquotas for 2022 (including an expected increase in General category quota from 555.7 mt to 587.9 mt, consistent with the annual BFT quota calculation process established in § 635.27(a)), domestic implementation of that recommendation is not yet final. NMFS published a proposed rule on March 7, 2022 (87 FR 12648) and is working on the final rule. The default General category daily retention limit is one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip and applies to General category permitted vessels and to HMS Charter/Headboat permitted vessels (when fishing commercially for BFT) (§ 635.23(a)(2)).

Adjustment of General Category Daily Retention Limit

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to five BFT per vessel after considering the regulatory determination criteria under § 635.27(a)(8). As described below, NMFS considered all of the relevant determination criteria and their applicability to the General category BFT retention limit for June through August 2022. After considering these criteria, NMFS has decided to increase the daily retention limit from one to three large medium or giant BFT per vessel per day/trip (*i.e.,* three BFT measuring 73 inches (185 cm) CFL or greater) for General category permitted vessels and for HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. HMS Charter/Headboat permitted vessels fishing recreationally under the Angling category restrictions must follow the Angling category retention and size limits.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example (and specific to the June through August 2022 limit), whether a vessel fishing under the General category retention limit takes a two-day trip or makes two trips in one day, the daily limit of three fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

Consideration of the Determination Criteria

As described above, under § 635.23(a)(4), NMFS may adjust the daily retention limit of large medium and giant BFT after considering the regulatory determination criteria under § 635.27(a)(8). Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date and the likelihood of closure of the General category if no adjustment is made (§ 635.27(a)(8)(ii)). Commercial-size BFT are anticipated to migrate to the fishing grounds off the northeast U.S. coast by early June. Given the typically slow catch rates in early June, it is unlikely that increasing the retention limit from one BFT to three BFT per vessel for a short period of time would result in the June through August subquota time period being filled. If catch rates increase, NMFS could take another action to reduce the trip limit to ensure the fishery would remain open throughout the subquota time period. In 2021, NMFS took similar action to increase the retention limit to three BFT per vessel in the first part of the June through August subquota time period (86 FR 27814, May 24, 2022). When catch rates increased in early July, NMFS reduced the retention limit from three BFT per vessel back to the default limit of one BFT per vessel (86 FR 36669, July 13, 2021). NMFS found that when the retention limit was three BFT per vessel, the vast majority of successful trips (*i.e.,* General or Charter/Headboat trips on which at least one BFT is landed under General category quota) landed only one or two BFT. Specifically, from June 1 through July 11, 2021, 91 percent of the trips landed one BFT; 7 percent landed two; and only 2 percent landed three. NMFS expects catch rates this year will be similar (*i.e.,* low in the first part of June and then increasing). In short, NMFS adjusts the retention limit throughout the season in such a way that NMFS believes, informed by catch rates in past seasons and the catch rates during the current season, increases fishing opportunities while also increasing the likelihood that the fishery will remain open throughout the subquota time period and year. NMFS also is aware of and considered the recently published proposed rule that would set restricted-fishing days for the General category during the months of July through November 2021 (87 FR 12643, March 7, 2022). If finalized, this proposed rule would further increase the likelihood that the fishery would remain open throughout the subquota time period and year.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(8)(v) and (vi)). This retention limit adjustment would be consistent with established quotas and subquotas, which are implemented consistent with ICCAT recommendations, (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. While not yet implemented domestically, this retention limit adjustment would also be consistent with ICCAT Recommendation 21–07, which would increase the quotas and subquotas slightly (87 FR 12648, March 7, 2022). In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This retention limit adjustment is in line with the established management measures and stock status determinations. It is also important that NMFS limit landings to the subquotas

both to adhere to the subquota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the latest stock assessment. Because this action is similar to past actions in previous years, this retention limit adjustment is consistent with those objectives.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota. This consideration is based on the objectives of the 2006 Consolidated HMS FMP and its amendments, and includes achieving optimum yield on a continuing basis and optimizing the ability of all permit categories to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)). NMFS anticipates that General category participants in all areas and time periods will have opportunities to harvest the General category quota in 2022, through proactive inseason management such as retention limit adjustments and/or the timing and amount of quota transfers (based on consideration of the determination criteria regarding inseason adjustments), as practicable. As discussed above, NMFS will closely monitor General category catch rates associated with the various authorized gear types (*e.g.,* harpoon, rod and reel) during the June through August time period and actively adjust the daily retention limit as appropriate to enhance scientific data collection and ensure fishing opportunities in all respective time-period subquotas as well as ensure available quota is not exceeded.

A limit lower than three fish at the start of the June through August time period could result in diminished fishing opportunities for those General category vessels using harpoon gear, based on past fish behavior early in the season. Lower limits may also result in effort shifts from the General category to the Harpoon category, which could result in premature closure of the Harpoon category (related to § 635.27(a)(8)(iv)), and, potentially, additional inseason adjustments. General category harpoon landings have averaged less than five percent of the General category landings in recent years and these landings occur early in the season. A three-fish retention limit for an appropriate period of time will provide a greater opportunity to harvest the June through August subquota time period with harpoon gear in the General category while maintaining equitable distribution of fishing opportunities for harpoon and rod and reel General category participants.

Given these considerations, we have determined that a three-fish General category retention limit is warranted for the beginning of the June–August 2022 subquota time period. This retention limit would provide a reasonable opportunity to harvest the available U.S. BFT quota (including the expected increase in available 2022 quota based on 2021 underharvest), without exceeding it, while maintaining an equitable distribution of fishing opportunities; help optimize the ability of the General category to harvest its available quota; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP and amendments.

Monitoring and Reporting

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

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

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

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons.

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The timing of this rulemaking will allow approximately one weeks' prior notice to the regulated community. Affording additional prior notice and an opportunity for public comment on the change in the daily retention limit from the default level for the June through August 2022 subquota time period would be impracticable. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, responsive adjustment to the General category BFT daily retention limit from the default level is warranted to allow fishermen to take advantage of availability of fish and of quota. NMFS could not have proposed these actions earlier, as it needed to consider and respond to updated data and information about fishery conditions and this year's landings. If NMFS was to offer a public comment period now, after having appropriately considered that data, it would preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria, and/or could result in selection of a retention limit inappropriate to the amount of quota available for the period.

Fisheries under the General category daily retention limit will commence on June 1 and thus prior notice would be contrary to the public interest. Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day/trip and may result in low catch rates and quota rollovers. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.* With quota available and fish available on the grounds, and with no additional

expected impacts to the stock, it would be contrary to the public interest to require vessels to wait to harvest the additional fish allowed through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment.

Adjustment of the General category retention limit needs to be effective June 1, 2022, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen in geographic areas with access to the fishery only during this time period. Foregoing opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP and amendments. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

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

Dated: May 24, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–11488 Filed 5–24–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 103
Friday, May 27, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0516; Project Identifier AD–2022–00262–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company 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 General Electric Company (GE) GE90–110B1 and GE90–115B model turbofan engines and certain GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines. This proposed AD was prompted by the detection of melt-related freckles in the forgings and billets, which may reduce the life of certain rotating compressor discharge pressure (CDP) high-pressure turbine (HPT) seals (rotating CDP seals), interstage HPT rotor seals, and HPT rotor stage 2 disks. This proposed AD would require revising the airworthiness limitations section (ALS) of the applicable GE90–100 Engine Manual (EM) and the operator's existing approved maintenance program or inspection program, as applicable, to incorporate reduced life limits for these parts. This proposed AD would also require the removal and replacement of certain interstage HPT rotor seals, identified by serial number (S/N), installed on GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines. 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 July 11, 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 service information identified in this NPRM, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com*; website: *https://www.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.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0516; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; email: *Alexei.T.Marqueen@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–2022–0516; Project Identifier AD–2022–00262–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 Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA was notified by the engine manufacturer of the detection of melt-related freckles in the forgings and billets, which may reduce the life of certain rotating CDP seals, interstage HPT rotor seals, and HPT rotor stage 2 disks on GE90–110B1 and GE90–115B model turbofan engines and may reduce the life of certain interstage HPT rotor seals on GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines. The manufacturer's investigation determined that, as a result of such freckles forming in the forgings and billets, certain rotating CDP seals, interstage HPT rotor seals, and HPT rotor stage 2 disks (life-limited parts (LLPs)) may have undetected subsurface anomalies that developed during the manufacturing process,

resulting in reduced material properties and a lower fatigue life capability. Reduced material properties may cause premature LLP fracture, which could result in uncontained debris release. As a result of its investigation, the manufacturer determined the need to reduce the life limits of certain LLPs. To reflect these reduced life limits, the manufacturer revised the ALS of the affected GE90–100 EMs. Additionally, the manufacturer published service information that specifies procedures for the removal and replacement of certain interstage HPT rotor seals installed on GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines. This condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

FAA's Determination

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

Related Service Information

The FAA reviewed GE GE90–100 Service Bulletin (SB) 72–0851 R00, dated August 17, 2021. This SB provides the reduced life limits for certain LLPs. The FAA also reviewed GE GE90 SB 72–1211 R00, dated March 9, 2022. This SB describes procedures for removing and replacing certain interstage HPT rotor seals.

Proposed AD Requirements in This NPRM

This proposed AD would require revising the ALS of the applicable GE90–100 EM and the operator's existing approved maintenance program or inspection program, as applicable, to incorporate reduced life limits for certain LLPs. This proposed AD would also require the removal and replacement of certain interstage HPT rotor seals.

Differences Between This Proposed AD and the Service Information

GE90–100 SB 72–0851 R00, dated August 17, 2021, uses the term ''HPT rotor interstage seals,'' while this proposed AD uses the term ''interstage HPT rotor seals.''

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 248 engines installed on airplanes of U.S. registry. The FAA estimates that zero engines installed on airplanes of U.S. registry would require replacement of the interstage HPT rotor seal.

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
Revise ALS of EM and the operator's existing approved maintenance program or inspection program.	1 work-hour × $85 per hour = $85	$0	$85	$21,080
Replace interstage HPT rotor seal	1,500 work-hours × $85 per hour = $127,500	286,331	413,831	0

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:

General Electric Company: Docket No. FAA–2022–0516; Project Identifier AD–2022–00262–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to:

(1) General Electric Company (GE) GE90–110B1 and GE90–115B model turbofan engines; and

(2) GE GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines with an installed interstage high-pressure turbine (HPT) rotor seal with part number (P/N) 2629M47P01 and serial number (S/N) NCU5430D.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section, and JASC Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by the detection of melt-related freckles in the forgings and

billets, which may reduce the life of certain rotating compressor discharge pressure (CDP) HPT seals (rotating CDP seal), interstage HPT rotor seals, and HPT rotor stage 2 disks. The FAA is issuing this AD to prevent failure of the rotating CDP seal, interstage HPT rotor seal, and HPT rotor stage 2 disk. The unsafe condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) For affected GE90–110B1 and GE90–115B model turbofan engines, within 90 days after the effective date of this AD, revise the airworthiness limitations section (ALS) of the existing GE90–100 Engine Manual (EM) and the operator's existing approved maintenance program or inspection program, as applicable, by inserting the following information:

(i) For rotating CDP seal P/N 2479M03P01, insert the information in Table 1 to paragraph (g)(1)(i) of this AD.

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Table 1 to Paragraph (g)(1)(i) – Rotating CDP Seal P/N 2479M03P01

Part Name	Part Number	Life Cycles
Seal, CDP	2479M03P01 For part serial numbers NOT listed in SB 72-0851, latest revision	15,000
Seal, CDP	2479M03P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 11	5,300
Seal, CDP	2479M03P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 12	10,400
Seal, CDP	2479M03P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A, Table 13	13,900

(ii) For interstage HPT rotor seal P/N 2505M72P01, insert the information in Table 2 to paragraph (g)(1)(ii) of this AD.

Table 2 to Paragraph (g)(1)(ii) – Interstage HPT Rotor Seal P/N 2505M72P01

Part Name	Part Number	Life Cycles
Seal, Interstage	2505M72P01 For part serial numbers NOT listed in SB 72-0851, latest revision	15,000
Seal, Interstage	2505M72P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 8	5,500
Seal, Interstage	2505M72P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 9	10,900
Seal, Interstage	2505M72P01 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 10	14,300

(iii) For HPT rotor stage 2 disk P/N 2505M73P03, insert the information in Table 3 to paragraph (g)(1)(iii) of this AD.

Table 3 to Paragraph (g)(1)(iii) – HPT Rotor Stage 2 Disk P/N 2505M73P03

Part Name	Part Number	Life Cycles
Disk, Stage 2	2505M73P03 For part serial numbers NOT listed in SB 72-0851, latest revision	15,000
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 1	3,500
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 2	5,100
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 3	5,800
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 4	7,200
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 5	8,000
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 6	8,300
Disk, Stage 2	2505M73P03 For part serial numbers listed in SB 72-0851, latest revision APPENDIX A Table 7	8,800

(2) For affected GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines, before the interstage HPT rotor seal, P/N 2629M47P01 and S/N NCU5430D, accumulates 7,400 cycles since new, remove the affected interstage HPT rotor seal from service and replace with a part eligible for installation.

(h) Definitions

For the purpose of this AD, a ''part eligible for installation'' is any interstage HPT rotor seal that does not have P/N 2629M47P01 and S/N NCU5430D.

(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 certification office, send it to the attention of the person identified in paragraph (j)(1) 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 this AD, contact Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; email: *Alexei.T.Marqueen@faa.gov*.

(2) For service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com*; website: *https://www.ge.com.* You may view this referenced 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.

Issued on May 5, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11346 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0545; Airspace Docket No. 22–AEA–9]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Baltimore, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E Surface airspace, and Class E Airspace Designated as an Extension to Class D airspace at Martin State Airport, Baltimore, MD. This action would replace the Baltimore Very High Frequency Omnidirectional Range Collocated Tactical Air Navigation (VORTAC) with the term Point of Origin. Also, this action would remove unnecessary verbiage from the descriptor header. In addition, this action would also make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace and make the editorial change replacing the term Notice to Airmen with the term Notice to Air Missions. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before July 11, 2022.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2022–0545; Airspace Docket No. 22–AEA–9 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: John Goodson, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–5966.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2022–0545 and Airspace Docket No. 22–AEA–9) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0545, Airspace Docket No. 22–AEA–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 document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 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 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except on federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, 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 proposes an amendment to 14 CFR part 71 to amend Class D

airspace, Class E Surface airspace, and Class E Airspace Designated as an Extension to Class D airspace at Martin State Airport, Baltimore, MD. This action would replace the Baltimore VORTAC with the term Point of Origin. Also, this action would remove unnecessary verbiage from the description headers. In addition, this action would also make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace and make the editorial change replacing the term Notice to Airmen with the term Notice to Air Missions.

Class D and Class E airspace designations are published in Paragraphs 5000, 6002, and 6004, 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 proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11F, Airspace Designations, and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA MD D Baltimore, MD [Amended]

Martin State Airport, MD
(Lat. 39°19′32″ N, long. 76°24′50″ W)
Point of Origin
(Lat. 39°10′16″ N, long. 76°39′41″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.2-mile radius of Martin State Airport and within 4.4 miles each side of a 14.7-mile radius arc of the Point of Origin extending clockwise from the Point of Origin's 030° radial to the Point of Origin's 046° radial, excluding that airspace within the Washington Tri-Area Class B airspace area and Restricted Areas R–4001A and R–4001B when they are in effect, and Restricted Area R–4001C, which is continuously active up to 10,000 feet MSL. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

AEA MD E2 Baltimore, MD [Amended]

Martin State Airport, MD
(Lat. 39°19′32″ N, long. 76°24′50″ W)
Point of Origin
(Lat. 39°10′16″ N, long. 76°39′41″ W)

That airspace within a 5.2-mile radius of Martin State Airport and within 4.4 miles each side of a 14.7-mile radius arc of the Point of Origin extending clockwise from the Point of Origin's 030° radial to the Point of Origin's 046° radial, excluding that airspace within the Washington Tri-Area Class B airspace area and Restricted Areas R–4001A and R–4001B when they are in effect. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AEA MD E4 Baltimore, MD [Amended]

Martin State Airport, MD
(Lat. 39°19′32″ N, long. 76°24′50″ W)

That airspace extending upward from the surface within 4 miles each side of a 134° bearing from Martin State Airport extending from the 5.2-mile radius of Martin State Airport to 9.2 miles southeast of the airport, excluding that airspace within the Washington Tri-Area Class B airspace area and Restricted Areas R–4001A and R–4001B when they are in effect. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on May 23, 2022.

Lisa Burrows,

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

[FR Doc. 2022–11395 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0692; Airspace Docket No. 22–ASW–11]

RIN 2120–AA66

Proposed Amendment of the Class E Airspace; Corsicana, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Corsicana, TX. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Powell non-directional beacon (NDB). 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 July 11, 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–2022–0692/Airspace Docket No. 22–ASW–11, 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.

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 C. David Campbell Field-Corsicana Municipal Airport, Corsicana, TX, 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–2022–0692/Airspace Docket No. 22–ASW–11.'' 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 6.6-mile (increased from a 6.5-mile) radius of C. David Campbell Field-Corsicana Municipal Airport, Corsicana, TX; removing the Powell NDB and the associated extensions from the airspace legal description; removing the city associated with the airport from the airspace legal description to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review conducted as part of the decommissioning of the Powell NDB which provided navigation information for the instrument procedures at this 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.

* * * * *

ASW TX E5 Corsicana, TX [Amended]

C. David Campbell Field-Corsicana Municipal Airport, TX
(Lat. 32°01′41″ N, long. 96°24′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of C. David Campbell Field-Corsicana Municipal Airport.

Issued in Fort Worth, Texas, on May 24, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–11408 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–10 and 301–70

[FTR Case 2022–01; Docket Number GSA–FTR–2022–0010, Sequence 1]

RIN 3090–AK61

Federal Travel Regulation (FTR); Constructive Cost

AGENCY: Office of Government-wide Policy (OGP), General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes to amend the Federal Travel Regulation (FTR) to clarify the concept of ''constructive cost'' as it relates to temporary duty travel, and clarify a section regarding what mode of transportation agencies should compare privately owned vehicle costs to when preparing a cost construction. These clarifications are intended to produce better estimates for decision makers.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before July 26, 2022 to be considered in the formation of the proposed rule.

ADDRESSES: Submit comments in response to FTR case 2022–01 to: *Regulations.gov: https://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FTR Case 2022–01''. Select the link ''Comment Now'' that corresponds with FTR Case 2022–01. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FTR Case 2022–01'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite FTR Case 2022–01, in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Jill Denning, Office of Government-wide Policy, at 202–208–7642 or email at *travelpolicy@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact The Regulatory Secretariat (M1V1CB), at 1800 F Street NW, Washington, DC 20405, 202–501–4755 or email at *GSARegSec@gsa.gov.* Please cite FTR case 2022–01.

SUPPLEMENTARY INFORMATION:

I. Background

GSA is proposing to amend the FTR to clarify the concept of ''constructive cost'' as it relates to temporary duty travel, and clarify a section regarding what mode of transportation agencies should compare privately owned vehicle (POV) costs to when preparing a cost construction.

When employees perform official business away from their official station, agencies must select the transportation method most advantageous to the Government, when cost and other factors are considered. Travel must be by the most expeditious means of transportation practicable and commensurate with the nature and purpose of the duties. In addition, the agency must consider energy conservation, total cost to the Government (including costs of per diem, overtime, lost work time, and actual transportation cost), total distance traveled, number of points visited, and number of travelers. The most advantageous transportation mode by order of precedence is common carrier, Government-furnished automobile, and rental car. An agency may authorize the use of a POV only after the agency evaluates the advantage of using the other modes of transportation.

Federal employees may choose to use a POV while on temporary duty (TDY) travel regardless of the mode of transportation the agency directs in the travel authorization. However, if the agency has directed the employee to use a mode of transportation other than POV because it is more advantageous to the Government, the agency must perform a cost comparison, known as a constructive cost exercise, to determine how much the agency should reimburse the traveler when they choose a POV over the agency-selected mode of transportation. If the mode of transportation the agency has authorized is less than the cost of traveling by POV, the employee only receives that limited amount, regardless of how much it costs to use a POV. If the constructive cost shows that the POV cost is less than the agency-selected mode, then the employee will receive the total POV-related costs. (Agencies are reminded that the FTR does not authorize agencies to require that employees use their POV for TDY travel, even if the costs will be less for the Government.)

GSA is aware that agencies often mistakenly calculate TDY constructive costs by only comparing the selected transportation mode with the POV mileage rates without also factoring in related travel costs, such as per diem expenses, parking, baggage fees, etc. Not factoring in these other costs leads to an incomplete calculation of the total ''constructive'' travel cost that employees may incur.

The Civilian Board of Contract Appeals (CBCA) and its predecessor board, the General Services Board of Contract Appeals (GSCBA) have, in

their holdings on TDY constructive costs, opined that when comparing the total allowable costs for travel by a mode other than that most advantageous to the Government, with the constructive cost of traveling by the authorized mode, agencies should think through the complete travel experience and include other potential costs. (*See In Re Yates,* GSBCA No. 15109–TRAV (Jan. 28, 2000); *In the Matter of Stephen M. England,* CBCA 3903–TRAV (Jan. 30, 2015)). For example, if an employee was authorized to travel by air via common carrier but chose to travel by POV, in calculating the constructive cost of air travel the agency should include potential costs such as the expected cost of lodging as well as meals, incidentals, airfare, baggage, use of a rental car, and transportation to and from the airport using a taxi or transportation network company (TNC), and perhaps others depending on the individual's situation. Even though these costs may not actually be incurred when the employee uses their POV instead of flying via a common carrier, they should be included in the agency's constructive cost analysis to determine how much the authorized mode would have cost the agency in total.

GSA anticipates there may be negligible cost savings because of this change in the regulation. The preferred methods of travel are not changing, and agencies will still be required to select the method of travel that provides the best value to the government. By better understanding how constructive costs are calculated, agencies should be less likely to authorize any higher-cost POV travel (except in rare instances when all preferred methods are not available or practicable). Agencies will likely spend less administrative time defending cost construction calculations that may have been unclear or confusing to the traveler.

Additionally, GSA proposes to clarify the constructive cost methodology stated in § 301–10.309. GSA amended this section in 2015 to include the use of rental cars as a potential transportation option that agencies could authorize on TDY in addition to the use of common carriers (80 FR 27259). However, when determining the constructive cost, the section currently states that agencies should not exceed the total constructive cost of the ''authorized method of common carrier transportation,'' when it should read ''authorized method of transportation'' as is consistent with 41 CFR 301–70.105(a). Agencies are directed to limit reimbursement to the authorized method of transportation (to include rental cars), rather than to the authorized method of common carrier (excludes rental cars). It is clear in the background section of the 2015 amendment that is what GSA intended, but at that time the FTR was not accurately amended to reflect the agency's intent.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not expected to be a significant regulatory action, and therefore, is not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

III. Congressional Review Act

OIRA has determined that this proposed rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). Additionally, this proposed rule is excepted from Congressional Review Act reporting requirements prescribed under 5 U.S.C. 801 since it relates to agency management or personnel under 5 U.S.C. 804(3).

IV. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the changes are administrative in nature and only affect Government employees. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

V. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the Federal Travel Regulation do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Parts 301–10 and 301–70

Government employees, Travel and transportation expenses.

Krystal J. Brumfield,

Associate Administrator, Office of Governmentwide Policy.

For the reasons set forth in the preamble GSA proposes to amend 41 CFR parts 301–10 and 301–70 as set forth below:

PART 301–10—TRANSPORTATION EXPENSES

■ 1. The authority citation for 41 CFR part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); 49 U.S.C. 40118; Office of Management and Budget Circular No. A–126, ''Improving the Management and Use of Government Aircraft.'' Revised May 22, 1992.

■ 2. Revise § 301–10.309 to read as follows:

§ 301–10.309 What will I be reimbursed if I am authorized to use common carrier transportation or a rental vehicle and I use a POV instead?

You will be reimbursed the applicable POV rate on a mileage basis, plus per diem and related travel expenses, not to exceed the total constructive cost of the authorized method of transportation. Your agency must determine the constructive cost in accordance with § 301–70.105(a).

PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

■ 3. The authority citation for 41 CFR part 301–70 is revised to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701, note); OMB Circular No. A–126, revised May 22, 1992; OMB Circular A–123, Appendix B, revised August 27, 2019.

■ 4. Amend § 301–70.105 by revising paragraph (a) to read as follows:

§ 301–70.105 May we prohibit an employee from using a POV on official travel?

* * * * *

(a) Limit reimbursement to the constructive cost of the authorized method of transportation, which is the sum of travel and transportation expenses the employee would reasonably have incurred had the employee traveled by the method of transportation deemed to be most advantageous to the Government. The calculation will necessarily involve assumptions. Examples of related expenses that could be considered constructive costs include, but are not

limited to, taxi and TNC fares, baggage fees, rental car costs, tolls, ferry fees, and parking charges; and

* * * * *

■ 5. Amend § 301–70.506 by revising paragraph (b) to read as follows:

§ 301–70.506 How do we define actual cost and constructive cost when an employee interrupts a travel assignment because of an incapacitating illness or injury?

* * * * *

(b) Constructive cost is the sum of travel and transportation expenses the employee would reasonably have incurred for round-trip travel between the official station and the alternate location plus per diem calculated for the appropriate en route travel time. The calculation will necessarily involve assumptions. Examples of related expenses that could be considered constructive costs include, but are not limited to, taxi and TNC fares, baggage fees, rental car costs, tolls, ferry fees, and parking charges.

[FR Doc. 2022–11096 Filed 5–26–22; 8:45 am]

BILLING CODE

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–2022–0004]

Parts and Accessories Necessary for Safe Operations; Speed Limiting Devices

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Advance notice of supplemental proposed rulemaking; extension of comment period.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) extends the comment period for its May 4, 2022, advance notice of supplemental proposed rulemaking concerning its intent to proceed with a speed limiter rulemaking. FMCSA received requests for an extension to the comment period from the American Trucking Associations (ATA) and the Owner-Operator Independent Drivers Association (OOIDA). Extension of the comment period will provide interested parties additional time to submit their responses. Therefore, the Agency extends the deadline for the submission of comments.

DATES: The comment period for the advance notice of supplemental proposed rulemaking is extended from June 3, 2022 to July 18, 2022. Comments must be received on or before July 18, 2022.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2022–0004 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/document/FMCSA-2022-0004-0001.* 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 or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., 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.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including information collection comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Office of Vehicle and Roadside Operations, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–0676; *MCPSV@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for the advance notice of supplemental proposed rulemaking (FMCSA–2022–0004), indicate the specific section of the document to which your 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 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 FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/document/FMCSA-2022-0004-0001,* click ''Comment,'' and type your comment into the text box on the following screen.

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.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the advance notice of supplemental proposed rulemaking contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the advance notice of supplemental proposed rulemaking, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington DC 20590–0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2022-0004/document* and choose the document to review. To view comments, click the advance notice of supplemental proposed rulemaking, then 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., 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

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). 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—Federal Docket Management System), which can be reviewed at *https://www.govinfo.gov/content/pkg/FR-2008-01-17/pdf/E8-785.pdf.*

II. Background

On May 4, 2022, FMCSA published an advance notice of supplemental proposed rulemaking (87 FR 26317) requesting public comment on questions related to the programming, adjustment, and maintenance of settings to engine control units as well as feedback on the applicability of the speed limiting devices rulemaking under consideration. The comment period for the advance notice of supplemental proposed rulemaking was set to expire on June 3, 2022.

FMCSA received requests to extend the comment period from the ATA and OOIDA. Copies of the requests are included in the docket.

The ATA requested a 30-day extension and OOIDA requested a 60-day extension. The requesters explained that due to the potential impacts and complexity of the issues associated with the speed limiters rulemaking, additional time was necessary to ensure that the most accurate data could be obtained and submitted by the associations' members.

FMCSA has determined that extending the comment period would provide the organizations, and other interested parties, additional time to prepare more detailed comments that are reflective of the concerns of their members. Accordingly, FMCSA extends the public comment period for the advance notice of supplemental proposed rulemaking to July 18, 2022.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–11490 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 87, No. 103
Friday, May 27, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Collection Instruments for the Board for International Food and Agricultural Development

AGENCY: United States Agency for International Development.

ACTION: Notice of information collection.

SUMMARY: U.S. Agency for International Development (USAID), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the following new information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning: Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of the information on the respondents.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed information collection to Clara Cohen, USAID, Bureau for Resilience and Food Security, (USAID/RFS/AA) at *ccohen@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: Clara Cohen, Executive Director, BIFAD, USAID Bureau for Resilience and Food Security, *ccohen@usaid.gov* or 202–712–0119.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Board for International Food and Agricultural Development (BIFAD) is a seven-member, presidentially appointed advisory board to USAID established in 1975 under Title XII of the Foreign Assistance Act, as amended, to ensure that USAID brings the assets of U.S. universities to bear on development challenges in agriculture and food security and supports their representation in USAID programming. BIFAD convenes diverse thought leadership through its public meetings around emerging issues related to food security, agricultural development, and nutrition. BIFAD has a strong interest in engaging with a broad and diverse stakeholder community, ensuring diverse participation in its events, and understanding how its public events and commissioned materials are used. A BIFAD support mechanism, implemented by Tetra Tech, also seeks to understand how effectively it is providing support to new BIFAD members through its orientation program.

The following six forms were developed:

1. Opt-in process for individuals electing to join a stakeholder database for Board for International Food and Agricultural Development (BIFAD), to receive occasional updates about BIFAD-led events and resources. for the stakeholder database and to better understand the types of participants reached through BIFAD activities. This information is important as BIFAD and USAID strive to diversify outreach of these activities.

2. An event registration form to facilitate the registration process for events hosted or co-hosted by the Board for International Food and Agricultural Development (BIFAD). This data will be collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) to facilitate event registration and to better understand the types of participants reached through BIFAD events. This information is important as BIFAD and USAID strive to diversify outreach of these activities.

3. A form to collect participant feedback following events hosted or co-hosted by the Board for International Food and Agricultural Development (BIFAD), related to participant reactions/level of satisfaction and intent to apply information to their work. This data will be collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) to inform BIFAD and USAID about participant engagement in BIFAD-supported activities.

4. A form to measure participant feedback before and after the new-member orientation process for the Board for International Food and Agricultural Development (BIFAD). The surveys will be administered to new BIFAD members with data collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) and maintained by Tetra Tech according to privacy and information protection protocols. This information is important as BIFAD and USAID strive to strengthen the new member orientation experience for the Board.

5. A form to collect information necessary when coordinating with speakers and authors for BIFAD-supported events and reports, while also collecting data to understand how well BIFAD is engaging a diverse community of experts. All speakers and authors will be asked to complete the survey with data collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) and maintained by Tetra Tech according to privacy and information protection protocols. This information is important as BIFAD and USAID strive to diversify engagement and to consistently collect information needed for planning and coordination with event speakers.

6. A form to collect information about BIFAD event participants' or report/product users' intent to use the information presented to inform their work, teaching, or research.

II. Method of Collection

Electronic. The data will be collected and maintained by the BIFAD Support Contract implementer, Tetra Tech, Inc., as per the Activity Monitoring, Evaluation, and Learning Plan.

III. Data

Number: 1

Title: BIFAD Stakeholder Database Opt-in Form.

OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 1,000.
Estimated Total Annual Burden Hours: 50.

Number: 2

Title: BIFAD Event Registration Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 1,000.
Estimated Total Annual Burden Hours: 80.

Number: 3

Title: BIFAD Post-Event Feedback Survey.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 500.
Estimated Total Annual Burden Hours: 40 hours.

Number: 4

Title: BIFAD New Member Orientation Survey.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 14.
Estimated Total Annual Burden Hours: 2.1.

Number: 5

Title: BIFAD Speaker Information Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 30.
Estimated Total Annual Burden Hours: 4.5.

Number: 6

Title: BIFAD Product Feedback Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 500.
Estimated Total Annual Burden Hours: 25.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of USAID, including whether the information collected has practical utility; (2) the accuracy of USAID's estimate of the burden (including both hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. The comments will also become a matter of public record.

Michael V. Michener,

Deputy Assistant to the Administrator, Bureau for Resilience and Food Security, U.S. Agency for International Development.

[FR Doc. 2022–11392 Filed 5–26–22; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0027]

Antimicrobial Resistance and One Health; Virtual Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Agriculture will be holding a public meeting to share what the Department has learned in furthering scientific knowledge on antimicrobial resistance (AMR) in the last decade with a look to the future. The meeting will be open to the public via Zoom and teleconference. A preregistered public comment session will be held during the meeting. Written comments, specifically highlighting what has been learned and challenges for furthering science on AMR across the One Health interfaces of food safety, animal and human health, and the environment are welcome.

DATES: The virtual public meeting will be held via Zoom and teleconference, on August 30, 2022, from 10:00 a.m. to 4:30 p.m. Eastern Time. The public may submit written comments until September 13, 2022.

ADDRESSES: This will be a virtual meeting. For more information about registration, providing comments, and accessibility for the meeting, see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Chelsey Shivley, Veterinary Medical Officer, Antimicrobial Resistance Coordinator, VS, APHIS, Strategy & Policy, 2150 Centre Avenue Bldg. B, Fort Collins, CO 80526; (970) 593–8132; email: *usdaamrpublicmeeting@usda.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture (USDA) Antimicrobial Resistance (AMR) Action Plan [1] was developed after a 2012 workshop. The Action Plan informed USDA's commitments in the first National Action Plan for Combating Antibiotic Resistant Bacteria.[2] Over the last decade, the USDA has learned more about AMR and discovered challenges for furthering antimicrobial stewardship and agricultural science on AMR across the One Health interfaces of food safety, animal and human health, and the environment.

The USDA will be holding a public meeting to share with the public what has been learned and the challenges for furthering antimicrobial stewardship and agricultural science on AMR across the One Health interfaces of food safety, animal and human health, and the environment, including crops and wildlife. The Department is interested in feedback from the public as to what has been learned in the past decade and future planned activities in AMR and One Health. The meeting will be open to the public via Zoom and teleconference. A preregistered public comment session will also be held during the meeting.

Registration: This meeting is open to the public via Zoom and by telephone. For Zoom and teleconference details, you must register at *https://www.zoomgov.com/webinar/register/WN_LFLkbcWuTdqGT0wxBZyuOQ.* Registration by August 23, 2022, is required for members of the public who wish to speak during the public comment period. We will ask that comments be limited to 5 minutes. Members of the public will be heard in the order in which they pre-registered.

Public comment: Written comments by attendees or other interested stakeholders will be welcomed for the

[1] *https://www.usda.gov/sites/default/files/documents/usda-antimicrobial-resistance-action-plan.pdf.*

[2] *https://www.cdc.gov/drugresistance/pdf/national_action_plan_for_combating_antibotic-resistant_bacteria.pdf.*

public record before and up to 2 weeks following the virtual meeting or by close of business Tuesday, September 13, 2022. All written comments must be sent to *usdaamrpublicmeeting@usda.gov.* Please refer to Docket No. APHIS–2022–0027 when submitting your comments.

Accessibility: If you require special accommodations, such as a sign language interpreter, please contact *usdaamrpublicmeeting@usda.gov.*

Done in Washington, DC, this 24th day of May 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–11462 Filed 5–26–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2022–0006]

Notice of Funds Availability (NOFA) for the Commodity Container Assistance Program

AGENCY: Farm Service Agency, Department of Agriculture (USDA).

ACTION: Notification of funds availability.

SUMMARY: The Farm Service Agency (FSA) is announcing the availability of funding for the Commodity Container Assistance Program (CCAP) in response to temporary market disruptions that have created logistical challenges associated with all aspects of the availability and flow of containers to transport agricultural commodities and products made from those commodities (collectively referred to as ''agricultural commodities''), and are preventing or delaying American-grown agricultural commodities from reaching their markets. CCAP will be focused on increasing intermodal container capacity through partnerships with the Port of Oakland, in Oakland, California, and the Northwest Seaport Alliance (NWSA), a marine cargo operating partnership between the Port of Seattle and the Port of Tacoma in Washington State. Both the Port of Oakland and the ports managed by NWSA have been identified as key gateways for American-grown agricultural commodities, and each have also experienced significant challenges with the flow of containerized agricultural commodities. To assist owners of American-grown agricultural commodities in shipping their commodities from U.S. ports to global markets, CCAP will support improved use of empty shipping containers, along with the prepositioning and temporary storage of filled shipping containers near export terminals. USDA may pursue additional temporary partnerships with other ports or intermodal facilities as supply chain conditions warrant, if funding is available. In this document, FSA is providing the eligibility requirements, application process, and payment calculations for CCAP.

DATES:

Funding availability: Implementation will begin May 27, 2022.

Applications Due Date: We will accept applications for funding through January 31, 2023.

Comment Due Date: We will consider comments on the information collection request discussed in the Paperwork Reduction Act section that we receive by: July 26, 2022.

ADDRESSES: *Comments:* We invite you to submit comments on the information collection request. You may submit comments using any of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2021–0012. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Director, Price Support Division, FSA, USDA, 1400 Independence Avenue SW, Stop 0510, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2022–0006.

All comments received, including those received by mail, will be posted without change and will be publicly available on *http://www.regulations.gov*.

Applications: To apply, send a complete form FSA–862, Commodity Container Assistance Program (CCAP) Application, to the FSA National Office by email to: *SM.FPAC.FSA.CCAP@usda.gov*.

FOR FURTHER INFORMATION CONTACT: Danielle L. Cooke; telephone: (202) 720–1919; or by email: *danielle.cooke@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

As agricultural producers and companies deal with the continued impacts of the COVID–19 pandemic, ocean carriers' poor service and refusal to serve customers, including refusing to provide and ship containers, have exacerbated existing challenges. Specifically, ocean carriers have made fewer shipping containers available for U.S. agricultural commodities, repeatedly changed return dates, and charged unjust fees. These same ocean carriers have short-circuited the pathways typically used to make shipping containers available to be filled with agricultural and other goods, and they have subsequently rushed these containers back to foreign ports empty. These trends have and continue to be seen at several U.S. ports, including but not limited to the Port of Oakland, the Port of Seattle, and the Port of Tacoma, where many ocean carriers have partially or completely suspended their services. Historically, approximately 60 percent of the products marketed through the Port of Oakland were agricultural commodities. Now, because of ocean carriers' disruptive behavior, some American-grown agricultural commodities have faced severe challenges in reaching their markets. Containerized exports of agricultural goods fell by 17 percent from California ports, costing California agriculture an estimated $2.1 billion May to September 2021,[1] with a more severe decline of 34 percent for the Port of Oakland. Similar challenges exist at the ports managed by the NWSA in Washington, where congestion-induced impacts to vessel schedules have made it difficult for agricultural goods to be loaded on ships at the export terminals. Containerized exports of agricultural commodities from Seattle are down 30 percent during the last 6 months of 2021 while empty shipping containers leaving the Port of Seattle have increased by a similar percentage.

In accordance with 15 U.S.C. 714c, the Secretary is using CCC funds to assist owners of agricultural commodities in shipping domestic agricultural commodities out of the Port of Oakland and NWSA. Funds available to CCC will be used as authorized by section 5(b) of the CCC Charter Act (15 U.S.C. 714c(b)). This authority will be used to assist in making available materials and facilities in connection with the marketing of agricultural commodities. It will assist owners of U.S. agricultural commodities with ongoing market disruptions and facilitate the recovery of shipping and other logistical services required to bring domestically produced agricultural commodities to markets.

[1] See *https://giannini.ucop.edu/publications/are-update/issues/2021/25/2/containergeddon-and-california-agriculture/*.

Specifically, FSA will provide a $125 per container payment to partially assist agricultural commodity owners with the additional logistical expenses associated with picking up empty shipping containers at the Port of Oakland to be filled with agricultural commodities. The Port of Oakland has opened a 25-acre temporary terminal to prepare and ease the provision of empty containers to be filled, which will ultimately reduce congestion at the main terminal. Through its separate gate, this terminal will allow for quicker pickup of empty containers and provide a pathway to bypass the congestion at the main terminals. The separate gate will also provide for increased access to available equipment and ultimately help avoid fewer unpredictable congestion surcharges for trucks. Under normal circumstances empty containers would be easily available from ocean carriers at the regular terminals, the combination of congestion, potential for additional drayage, and the terminal fees will add cost to the agricultural commodity owners and necessitates the $125 per container payment.

Additionally, through the partnerships with both the Port of Oakland and NWSA, FSA will offer payments of $200 per container for filled dry containers and $400 per container for filled refrigerated containers (generally referred to as ''reefer containers'') to owners who deliver such filled containers to designated temporary storage terminals. These payments will help address the logistical costs of moving a container twice—first to the preposition terminal, and second to the terminal loading the vessel—along with the costs associated with temporary storage. Prior to the recent unpredictable delivery and export windows, owners of agricultural commodities had been provided sufficient delivery windows and notice to deliver the agricultural commodities directly to the terminal that loads the vessel.

In each of these cases, the agricultural commodity owner will likely incur an extra charge for short distance transportation, or ''drayage,'' fees from the terminal operator or ocean carrier and daily storage for any prepositioned filled containers. The drayage alone is expected to range between $150 and $250 per container based on discussions with agricultural shippers operating in the Oakland, Seattle, and Tacoma regions. Temporary storage of filled containers is expected to cost about $50 per dry container per day and $200 for reefer containers. The per-container fee for reefer containers is higher, since reefer containers require additional electricity and labor costs, which directly result in higher storage and transportation costs. The value of CCAP for U.S. companies lies in the benefits of increasing the ability of moving containers to meet narrow and changing shipping windows provided by the ocean carriers. These payments will lessen the burden on owners to manage the logistical challenges and continue to move containers despite the service challenges. All payments to agricultural commodity owners will be made in arrears and verified with terminal records.

USDA will make payments as frequently as monthly to eligible owners or designated marketing agents of U.S. agricultural commodities based on the number of eligible shipping containers they picked up or stored starting retroactively back to March 1, 2022, through December 31, 2022, from eligible ports to ship agricultural commodities to their designated markets on container ships.

FSA is administering the direct payments under the general supervision and direction of the Deputy Administrator.

Definitions

The following definitions apply to this notice:

Deputy Administrator means Deputy Administrator for Farm Programs, Farm Service Agency, U.S. Department of Agriculture, or their designee.

Designated marketing agent means an individual or entity that has explicit written permission to apply for CCAP from, and on behalf of, the owner of the agricultural commodities.

Owner means a business entity, including cooperative, handler, company, or exporter that is liable for and has ownership of the agricultural commodities in transit. Only one owner is allowed to apply for payment per container.

Picked up means the applicant picked up empty shipping containers from the designated port terminal to be filled with eligible agricultural commodities.

Stored means the applicant delivered the shipping container filled with eligible agricultural commodities to the designated port terminal for temporary storage at a designated storage terminal.

United States means all 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

Eligible Commodities

Eligible agricultural commodities are agricultural commodities (other than tobacco) that are grown or produced in the United States for food, feed, or fiber, and products made from those commodities, including forestry products, that are to be or were shipped in a shipping container picked up from the Port of Oakland or contained within a filled shipping container stored at the Port of Oakland or the NWSA locations from March 1, 2022, through December 31, 2022. A list of examples of eligible and ineligible commodities will be posted on the FSA website for CCAP.

Eligibility

To be eligible for a CCAP payment, each applicant must:

- Own domestically-grown or produced agricultural commodities or be the designated marketing agent of the owner;
- Have picked up containers from the Port of Oakland or stored containers at the Port of Oakland or NWSA and filled the containers with agricultural commodities that are grown or produced in the United States for food, feed, or fiber, and products made from those commodities;
- Have properly executed power of attorney or signature authority if representing an individual or entity;
- Submit completed application as specified in the Application Process section below; and
- Have a Unique Entity Identifier (created in and used by *www.SAM.gov*).

Application Process

FSA will accept applications from May 31, 2022 through January 31, 2023. To apply for CCAP, each eligible applicant must submit a completed form FSA–862, Commodity Container Assistance Program (CCAP) Application to provide the monthly number of containers picked up or stored by type of container and by port. Applicants may submit applications on a monthly basis, all at once at the end of CCAP, or for a combination of months, but applicants should not submit duplicate information for a month that has already been previously submitted. Applications should be submitted to the FSA National Office by email to the following email address: *SM.FPAC.FSA.CCAP@usda.gov.*

Applicants are to submit only one FSA–862 for all shipping containers picked up or stored and report the number of containers picked up from the specified port for the relevant month(s), regardless of the number of agricultural commodities that are packed and shipped out of the designated port. In other words, the application is based on the number of shipping containers picked up or stored and used for U.S. agricultural

commodities, but it is not based on the type of agricultural commodity. Shipping containers that are filled with non-agricultural commodities are not eligible for CCAP payments. Revised applications will not be allowed without supporting documentation if the application has been approved for payment and any revised applications must be submitted no later than January 31, 2023. Subject to available funds, CCAP payments will not be issued until an applicant certifies the number of containers picked up or stored each month or group of months at the designated port, as applicable. The applicant must certify to the total number of containers picked up or stored by the application period deadline as specified in this document.

The number and type of shipping containers claimed on the FSA–862 will be as certified by the applicant and are subject to spot check. Applicants may also be asked to provide documentation of what agricultural commodity was loaded into the container in order to confirm that the shipping container was used for agricultural commodities.

If requested by FSA, the applicant must provide supporting documentation to verify the accuracy of information provided on the application, including to substantiate the number and type of shipping containers, ownership of the commodities, or authority to act as a designated marketing agent. If any supporting documentation is requested, the documentation must be submitted to FSA within 30 days from the request or the application will be disapproved by FSA.

Payment Rates and Calculations

Information and expert opinion from the Port of Oakland and the NWSA authorities, along with information associated with the logistics movement costs of different container types, were used to estimate the increased additional movement logistics costs associated with agricultural containerized exports.

Payments will be calculated based upon the port, whether containers are picked up or stored, and the type of containers (empty containers versus filled dry or reefer containers). The CCAP payment rate is on a per container basis as shown in the following table.

Location and action	CCAP payment rate ($/Container)
Picked up empty shipping containers:	
Port of Oakland	$125
Stored filled shipping containers:	
Port of Oakland and NWSA—	
Dry containers	200
Reefer containers	400

The CCAP payment will be calculated as follows:

Number of containers picked up from or stored in the designated port multiplied by the respective CCAP payment rate for that type of container.

For example, the owner of agricultural goods that are stored at the NWSA facility submits an application specifying 10 dry containers and 3 reefer containers for the month of March 2022. FSA calculates the payment by multiplying $10 \times \$200$ for the dry containers, and $3 \times \$400$ for the reefer containers, for a total payment of $3,200 for that month.

The temporary storage of a container should be reported only for the month that the container was delivered to the designated port terminal for temporary storage even if the storage period covers parts of more than one month. This is a one-time storage payment. It does not matter how long a container is stored. Therefore, the same container and shipment should not be included for a storage payment on an application more than once.

The applicant may be eligible to receive separate payments for the same container: Once for being picked up empty and later for being temporarily stored at a designated port. For example, if an almond producer picked up 10 empty containers in May to be filled with almonds from the designated terminal to provide empty containers at the Port of Oakland, that almond producer would be eligible to apply for the $125 per container payment for those 10 empty containers. If that same almond producer then immediately filled and shipped 5 of those containers directly through the export terminal, but the remaining 5 containers were filled and delivered to the designated terminal to be temporarily stored for a few days in June before being drayed to the export terminal and loaded in a vessel later in June, the almond producer would be eligible to apply for the $200 per container payment for the temporary storage of 5 containers in June (dry containers in this example). Only containers picked up or temporarily stored at the designated storage terminal are eligible, so even if the 5 containers that were exported in May were held for a few days at the export terminal, they would not be eligible for CCAP. In this example, FSA calculates the payment by multiplying $10 \times \$125$ for picking up empty containers in May, and $5 \times \$200$ for the temporary storage of dry containers in June, for a total payment of $2,250 ($1,250 for May and $1,000 for June).

Provisions Requiring Refund to FSA

In the event that any application for a CCAP payment resulted from erroneous information reported by the applicant, FSA will recalculate the payment, and the applicant must refund any excess payment to FSA, including interest to be calculated from the date of the disbursement to the applicant. If, for whatever reason, FSA determines that the applicant misrepresented the number and type of shipping containers, the application will be disapproved, and the applicant must refund the full CCAP payment to FSA with interest from the date of disbursement. Any required refunds must be resolved in accordance with 7 CFR part 3.

Miscellaneous Provisions

All applicants must provide the name and address of the entity receiving payment. Appeal regulations specified in 7 CFR parts 11 and 780 and equitable relief and finality provisions specified in 7 CFR part 718, subpart D, apply to determinations under CCAP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts in an individual participant's application for payment are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the determination of applicable time periods and the payment calculation for CCAP.

Participants are required to retain documentation in support of their application for 3 years after the date of

approval. Participants receiving CCAP payments or any other person that furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the participant's business and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

Applicants have a right to a decision in response to their application. If an applicant files a late CCAP application, the application will be considered a request to waive the deadline.

Requests to waive or modify program provisions, including requests to waive the deadline, are at the discretion of the Deputy Administrator. The Deputy Administrator has the authority to waive or modify application deadlines and other requirements or program provisions not specified in law in cases where the Deputy Administrator determines it is (1) equitable to do so and (2) where the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of CCAP.

Applicants who request to waive or modify CCAP provisions do not have a right to a decision on those requests, and the Deputy Administrator's refusal to exercise discretion on requests to waive or modify CCAP provisions will not be considered an adverse decision and is, by itself, not appealable.

The regulations governing offsets in 7 CFR part 3 apply to CCAP payments.

In either applying for or participating in CCAP, or both, the applicant is subject to laws against perjury (including but not limited to 18 U.S.C. 1621). If the applicant willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the applicant knows or believes not to be true, in the course of either applying for or participating in CCAP, or both, then the applicant may be found to be guilty of perjury. Except as otherwise provided by law, if guilty of perjury the applicant may be fined, imprisoned for not more than 5 years, or both, regardless of whether the applicant makes such verbal or written declaration, certification, statement, or verification within or outside the United States.

Paperwork Reduction Act Requirements

In compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), FSA is requesting comments from interested individuals and organizations on the information collection request associated with CCAP. After the 60-day period ends, the information collection request will be submitted to the Office of Management and Budget (OMB) for a 3-year approval. To start the CCAP information collection approval, prior to publishing this notice, FSA received emergency approval from OMB for 6 months.

Title: Commodity Container Assistance Program (CCAP).

OMB Control Number: 0560–0310.

Type of Request: New Collection.

Abstract: FSA will provide assistance to eligible owners or designated marketing agents of U.S. agricultural commodities using eligible shipping containers from the Port of Oakland and designated ports associated with the NWSA. The eligible owners or designated marketing agents must complete the form FSA–862, CCAP Application for FSA to qualify for CCAP payments and to calculate the CCAP payments based upon the port, type of service (temporary storage versus providing empty containers) and the type of the shipping containers (empty containers or filled dry or reefer containers). FSA may request additional supporting documents for verification of information on a completed CCAP Application.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per response multiplied by the estimated total annual responses.

Estimate of Respondent Burden: Public reporting burden for this information collection is estimated to average 0.33 hours per response to include the time for reviewing instructions, searching for information, gathering and maintaining the data, and completing and reviewing the collection of information.

Type of Respondents: Businesses.

Estimated Annual Number of Respondents: 200.

Estimated Number of Responses Per Respondent: 8.

Estimated Total Annual Responses: 1,600.

Estimated Average Time Per Response: 0.33.

Estimated Total Annual Burden on Respondents: 528.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden 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 that are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this document, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799).

The purpose of CCAP is to establish a marketing assistance program to support agricultural commodity owners of U.S. agricultural commodities for pick up or temporary storage of eligible shipping containers from the Port of Oakland and NWSA from March 1, 2022, through December 31, 2022. The limited discretionary aspects of CCAP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the Categorical Exclusions in 7 CFR 799.31(b)(6)(iii) that applies to price support programs.

No Extraordinary Circumstances (7 CFR 799.33) exist. As such, the implementation of CCAP and the participation in CCAP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the

Assistance Listing,[2] to which this document applies is 10.966, Commodity Container Assistance Program (CCAP).

USDA Non-Discrimination Policy

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

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and TTY) or (844) 433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

William Marlow,

Acting Administrator, Farm Service Agency.

[FR Doc. 2022–11423 Filed 5–26–22; 8:45 am]

BILLING CODE 3410–05–P

[2] See *https://sam.gov/content/assistance-listings.*

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Senior Farmers' Market Nutrition Program (SFMNP)

AGENCY: Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection of information relating to the reporting and recordkeeping burden associated with the Senior Farmers' Market Nutrition Program (SFMNP).

DATES: Written comments must be received on or before July 26, 2022.

ADDRESSES: Comments may be sent to: Allison Post, Acting Chief, Policy Branch, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Braddock Metro Center II, 1320 Braddock Place, 3rd Floor, Alexandria, VA 22314. Comments may also be submitted via fax to the attention of Allison Post at 703–305–2086 or via email to *Allison.Post@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Allison Post at 703–457–7708 or via email to *Allison.Post@usda.gov.*

SUPPLEMENTARY INFORMATION:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Senior Farmers' Market Nutrition Program (SFMNP).

Form Number: FNS–683A (under OMB Control Number 0584–0594) is associated with this collection.

OMB Number: 0584–0541.

Expiration Date: December 31, 2022.

Type of Request: Revision of a currently approved collection.

Abstract: The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), created the Senior Farmers' Market Nutrition Program (SFMNP) in 2000 as a pilot program awarding grants to State agencies (including geographic States, U.S. Territories, and federally recognized Indian Tribal Organizations (ITOs)) on a competitive basis. The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), Public Law 107–171, authorized the SFMNP, beginning Fiscal Year (FY) 2003, and gave USDA the authority to develop regulations for the SFMNP. These regulations are published at 7 Code of Federal Regulations (CFR) part 249. The Agriculture Improvement Act of 2018 (2018 Farm Bill), Public Law 115–334, reauthorized the SFMNP through fiscal year 2023.

The purpose of the SFMNP is to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, herbs, and honey from farmers' markets, roadside stands, and community supported agriculture (CSA) programs to low income seniors; to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSA programs; and to develop or aid in the development of new and additional farmers' markets, roadside stands, and CSA programs.

The 2018 Farm Bill and SFMNP regulations at 7 CFR part 249 require that certain program-related information be collected and that full and complete records concerning SFMNP operations are maintained. The information reporting and recordkeeping requirements are necessary to ensure appropriate and efficient management of the SFMNP program. These burden activities are covered by this Information Collection Request (ICR) which include requirements that involve the authorization and monitoring of State agencies; the certification of SFMNP participants; the nutrition education that is provided to participants; farmer, farmers' market,

roadside stand, and CSA program authorization, training, monitoring, and management; and financial and participation data (using Senior Farmers Market Nutrition Program (SFMNP) Annual Financial and Program Data Report (FNS 683A), which is approved (both the form and its associated reporting burden) under OMB Control Number: 0584–0594 Food Programs Reporting System (FPRS), Expiration Date: 07/31/2023). The recordkeeping burden associated with this form is not approved under OMB Control Number 0584–0594. State agencies must maintain records in order to support data reported in FPRS, and the recordkeeping burden for such record maintenance is captured in this ICR, OMB Control Number: 0584–0541. State plans are the principal source of information about how each State agency operates its SFMNP. Information from participants and local agencies is collected through State-developed forms or Management Information Systems. The information collected is used by the Department of Agriculture/Food and Nutrition Service to manage, plan, evaluate, make decisions and report on SFMNP program operations. Along with the State Plans, State agencies also submit the Federal-State Supplemental Nutrition Programs Agreements (FNS–339) whose reporting and recordkeeping burden is associated and approved under OMB Control Number: 0584–0332, Expiration Date: 04/30/2022.

This information collection is requesting a revision in the burden hours due to program changes and adjustments that primarily reflect the inclusion of existing requirements that have been in use without PRA approval and are being added into this collection to correct this oversight, such as requirements related to the activities that authorized outlets need to perform in order to participate in the Program and the maintenance of records and systems by State and local agencies. This information collection is requesting a revision in the burden hours due to program changes and adjustments that also reflects expected decreases in the number of SFMNP participants; SFMNP authorized farmers, farmers' markets, roadside stands, and CSA programs (authorized outlets); and SFMNP local agencies.

The currently approved burden for this collection is 449,090. FNS estimates the new burden at 1,143,986 burden hours, which is an increase of 694,896. The currently approved total annual responses are 2,549,454; we are requesting 2,400,726, which is a decrease of 148,728 total annual responses.

Affected Public: Individual/ Households; Business or Other For Profit; Not For Profit Organizations; State, Local and Tribal Government: Respondent groups identified include: (1) SFMNP participants who are low-income seniors; (2) authorized farmers, farmers' markets, roadside stands and CSA programs; (3) nonprofit businesses operating as local agencies; and (4) local and State agencies (including geographic States, U.S. Territories, and Indian Tribal Organizations (ITOs)) administering the Program).

Estimated Number of Respondents: The total estimated number of respondents is 746,264. This includes: 55 State agencies, 678 local agencies, 725,686 individuals/households (program recipients), 290 nonprofit business, and 19,555 authorized outlets.

Estimated Number of Responses per Respondent: The total estimated number of responses per respondent for this collection is 3.22.

Estimated Total Annual Responses: 2,400,726. The estimated total for reporting is 1,671,921 while the estimated total for recordkeeping is 728,805.

Estimated Time per Response: The estimated time per response averages .48 hours for all participants. For the reporting and recordkeeping burden, the estimated time of response varies from approximately 1 minute to 40 hours depending on the respondent group.

Estimated Total Annual Burden on Respondents: 1,143,986 hours. The estimated total for reporting burden is 958,511 while the estimated total for recordkeeping is 185,474 burden hours.

See the table below for estimated total annual burden for each type of respondent.

ESTIMATE OF THE COLLECTION OF INFORMATION BURDEN TABLE

Regulatory section	Information collected	Form(s)	Est. number of respondents	Annual responses per respondent	Total annual responses	Hours per response	Total annual burden hours
REPORTING BURDEN ESTIMATES Affected Public: State & Local Agencies (Including U.S. Territories and Indian Tribal Organizations)							
249.3(d)	Local agency applications		677.60	0.50	338.80	2.00	677.60
249.4	State Plan of Operations		55.00	1.00	55.00	40.00	2,200.00
249.6(a)(3)	Certification data for seniors		55.00	13,194.29	725,686.00	0.25	181,421.5
249.10(a)(2), (b), (c).	Authorization—Review of Outlet Applications (Farmers, Farmers' Market, Roadside Stand, CSA Program).		55.00	177.77	9,777.50	1.00	9,777.50
249.10(a)(7), (d)	Annual Training for Authorized Outlets Development.		55.00	1.00	55.00	8.00	440.00
249.10(a)(7), (d)	Annual Training for Authorized Outlets		55.00	15.00	825.00	2.00	1,650.00
249.10(b)(8)	Disqualification of Authorized Outlets		5.00	1.00	5.00	0.08	0.42
249.10(e)(2)(3), 249.17(c)(1)(i).	Monitoring and review of at least 10 percent of authorized farmers, farmers' markets, roadside stands, and CSA programs.		55.00	35.55	1,955.50	1.50	2,933.25
249.10(e)(4), 249.17(c)(1)(ii)(iii).	Monitoring/Review of Local Agencies		55.00	8.80	484.00	2.00	968.00
249.10(f)	Coupon/CSA management system		55.00	1.00	55.00	5.00	275.00
249.10(h)	Coupon reconciliation		55.00	1.00	55.00	3.00	165.00
249.10(j)	Recipients and Authorized Outlet Complaints.		55.00	9.09	500.00	1.00	500.00
249.10(k)	Recipients and Authorized Outlet Sanctions.		55.00	7.11	391.10	0.08	32.66
249.11	Financial management system		55.00	1.00	55.00	10.00	550.00
249.12(a)(2)	Prior approval for cost items per 2 CFR part 200, subpart E, and 2 CFR parts 400 and 415.		5.00	1.00	5.00	40.00	200.00
249.17(a)	Establishment of ME System		1.00	1.00	1.00	24.00	24.00
249.17(b)(2)	State agency corrective action plans		8.00	1.00	8.00	10.00	80.00

ESTIMATE OF THE COLLECTION OF INFORMATION BURDEN TABLE—Continued

Regulatory section	Information collected	Form(s)	Est. number of respondents	Annual responses per respondent	Total annual responses	Hours per response	Total annual burden hours
249.17(c)(2)	Special Reports		2.00	1.00	2.00	10.00	20.00
249.18(b)	Audit responses		1.00	1.00	1.00	15.00	15.00
249.23(b)	Financial/recipient reports	FNS–683A			0.00		0.00
Subtotal Reporting: State and Local Agencies			732.60	1010.45	740,254.90	0.27	201,929.92
Affected Public: Individuals/Households (Applicants for Program Benefits)							
249.6	Certification data for seniors		725,686	1	725,686	0.0167	12,118.9562
Subtotal Reporting: Individuals/Households			725,686	1	725,686	0.0167	12,118.9562
Affected Public: Authorized Farmers, Farmers' Markets, Roadside Stands, CSA Programs							
249.3(d)	Non-profit businesses Applications		290.4	0.5	145.2	2	290.4
249.10(b), (c)	Authorized Outlet Agreements		9,777.5	1	9,777.5	0.0835	816.42125
249.10(b)(1)(xi)	Farmer/farmers' market complaints		500	1	500	0.5	250
249.10(b)(8)	Appeal of Denial		7.822	1	7.822	2	15.644
249.10(d)	Annual Training for Authorized Outlets		19,555	1	19,555	2	39110
249.10(e)(1)	Coupon Reimbursement		19,555	9	175,995	4	703,980
Subtotal Reporting: Authorized farmers, farmers' markets, roadside stands and CSA programs.			19,845.40	10.38	205,980.52	3.61	744,462.47
GRAND SUBTOTAL: REPORTING			746,264.00	2.240388686	167,1921.42	0.573299279	958,511.35
RECORDKEEPING BURDEN ESTIMATES							
Affected Public: State & Local Agencies (Including U.S. Territories and Indian Tribal Organizations)							
249.4(c)	State Plan Record Maintenance		55	1	55	0.167	9.185
249.9	Nutrition education		55	13194.29091	725,686	0.25	181,421.5
249.10(a)(4), (d)	Authorized Outlet Training Content		55	1	55	2	110
249.10(b)	Authorized farmers, farmers' markets, roadside stands and CSA program agreements.		55	1	55	2	110
248.10(b)(8)	Maintenance of Disqualification and Sanction Records.		55	1	55	0.167	9.185
249.10(e)(2)(3), 249.17(c)(1)(i).	Monitoring and review of at least 10 percent of authorized farmers, farmers' markets, roadside stands, and CSA programs.		55	39.90816327	2,194.94898	0.5	1,097.47449
249.10(e)(4); 249.17(c)(1)(ii).	Monitoring/Review of Local Agencies		55	8.8	484	0.5	242
249.11(c)	Record of financial expenditures	FNS–683A	55	1	55	2	110
249.16(a)	Fair hearings		55	1	55	1	55
249.17(a)	Maintenance of Management Evaluations.		55	1	55	2	110
249.23(a)	Record of Program operations		55	1	55	40	2,200
GRAND SUBTOTAL: RECORDKEEPING			55.00	13251.00	728,804.95	0.25	185,474.34
GRAND SUBTOTAL REPORTING AND RECORDKEEPING.			746,264.00	3.22	2,400,726.37	0.48	1,143,985.69

	Estimated number of respondents	Responses per respondent	Total annual responses (Col. B × C)	Estimated avg. number of hours per response	Estimated total hours (Col. D × E)
Total Reporting Burden	746,264.0	2.24	1,671,921.42	0.57	958,511.35
Total Recordkeeping Burden	55.00	13251.00	728,804.95	0.25	185,474.34
TOTAL BURDEN FOR #0584–0541	746,264.0	3.22	2,400,726.37	0.48	1,143,985.69

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–11479 Filed 5–26–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Custer Gallatin National Forest—Yellowstone Ranger District—Stillwater Mining Company, East Boulder Mine Amendment 004 Expansion EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The United States Department of Agriculture, Forest Service, Custer Gallatin National Forest has received a proposal from Stillwater Mining Company to amend the East Boulder Plan of Operations. Stillwater Mining Company proposes to expand the currently approved plan of operations boundary to provide their East Boulder Mine with additional storage for tailings and waste rock disposal and operational changes for continued operations. This notice informs the public that the Custer Gallatin National Forest intends to prepare an Environmental Impact Statement to assess the Plan of Operations Amendment and provides supporting information to the public on the purpose and need for Forest Service Action, a brief summary of the proposed action, preliminary impacts, and upcoming public scoping and comment opportunities.

DATES: Comments concerning the scope of the analysis must be received by June 27, 2022. The draft environmental impact statement is expected January 2023 and the final environmental impact statement is expected October 2023.

ADDRESSES: Comments may also be sent electronically to *https://www.fs.usda.gov/project/?project=61385.*

FOR FURTHER INFORMATION CONTACT: Robert Grosvenor, CGNF Minerals Administrator, (406) 848–7375 ext. 28, or at: *robert.grosvenor@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Forest Service's purpose for action is to consider approval of Stillwater Mining Company's East Boulder Plan of Operations Amendment 004 to expand operations on National Forest System lands in order to continue to develop and mine platinum and palladium deposits from the J–M Reef. The Forest Service purpose and need for action are established by the agency's responsibilities under the Organic Administration Act of 1897 (16 United States Code 478, 482, and 551) and the locatable minerals regulations at 36 Code of Federal Regulations (CFR) 228, subpart A, which set forth rules and procedures through which use of the surface of NFS lands in connection with operations authorized by the United States Mining Laws (30 United States Code 21–54), which confer a statutory right to enter upon the public lands to search for minerals, shall be conducted so as to minimize adverse environmental impacts on National Forest System lands surface.

Proposed Action

The East Boulder Mine Amendment 004 project proposes continuation of mining operations by constructing a new tailings storage facility, waste rock storage area, and constructing supporting infrastructure or relocating existing infrastructure to support the expansion activities in the vicinity of the existing East Boulder Mine on National Forest System and private lands. The Plan of Operations incorporates closure and reclamation, monitoring, and mitigation activities throughout the life of the mine. Under the plan of operations, construction, operation, closure, and reclamation phases of the Amendment 004 project would take place over a period of approximately 20 years. Environmental monitoring and maintenance would continue for as long as needed to demonstrate that the site has been fully reclaimed.

Expected Impacts

Preliminary impacts were identified based on regulatory requirements, input from Forest Service Interdisciplinary Team and previous public involvement and collaboration related to mineral development projects. Preliminary impacts include:

Surface Water and Groundwater—Construction and operation of mine infrastructure may inpact water quality and quantity.

Public Health and Safety—Public health and safety could potentially be impacted throughout the life of the mine.

Wildlife—Construction activities and operations could affect wildlife species and habitats including fish such as Yellowstone cutthroat trout.

Joint Lead Agencies

USDA Forest Service—Custer Gallatin National Forest and Montana Department of Environmental Quality.

Responsible Official

Mary C. Erickson, Forest Supervisor, Custer Gallatin National Forest.

Scoping Comments and the Objection Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. In this process the Agency is requesting comments on potential alternatives and impacts, and identification of any relevant information, studies or analyses of any kind concerning impacts affecting the quality of the human environment.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Commenting during scoping and any other designated opportunity to comment provided by the Responsible Official will also establish standing to object once the final EIS and Draft Record of Decision has been published. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, they will not be used to establish standing for the objection process.

Permits, Licenses or Other Authorizations Required

Department of Environmental Quality—Mine Operations and Reclamations Permit Amendment.

Dated: April 28, 2022.

Barnie Gyant,

Associate Deputy Chief, National Forest System.

[FR Doc. 2022–11470 Filed 5–26–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[5/3/2022 through 5/20/2022]

Firm name	Firm address	Date accepted for investigation	Product(s)
Hygrade Precision Technologies, LLC	329 Cooke Street, Plainville, CT 06062 ...	5/12/2022 ...	The firm manufactures miscellaneous metal parts.
MSP Aviation, Inc	239 West Grimes Lane, Bloomington, IN 47403.	5/20/2022 ...	The firm manufactures miscellaneous metal parts.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,

Director.

[FR Doc. 2022–11459 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2022]

Foreign-Trade Zone (FTZ) 18—San Jose, California; Notification of Proposed Production Activity; Epoch International Enterprises, Inc. (Printed Circuit Board Assemblies and Enclosures), Fremont, California

Epoch International Enterprises, Inc., submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Fremont, California, within Subzone 18M. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on May 16, 2022.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include printed circuit board assemblies, tester boxes, ribbon cable assemblies, and potentiometer boards (duty rate ranges from duty-free to 2.7%).

The proposed foreign-status materials and components include: Printed circuit boards (PCBs); various capacitors (surface mount multi-layer ceramic chip; aluminum electrolytic); various resistors (surface mount fixed chip; non-surface mount); surface mount chip inductors; various diodes (surface mount; light emitting; transient-voltage-suppression); integrated circuits; various insulated copper cable with connectors (33 American Wire Gauge (AWG) or finer; larger than 22 AWG and finer but larger than 33 AWG); insulated copper cable larger than 22 AWG; various through hole/surface mount switches (tactile; toggle); mounted piezo electric crystals; thyristors; metal-oxide-semiconductor field-effect transistors; plastic machined or molded enclosures; plastic machined covers; multi-pin surface mount connectors for PCBs; surface mount or board mount (leaded) fuses; and, 3.7V lithium polymer batteries (duty rate ranges from duty-free to 5.3%). 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 July 6, 2022.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: May 23, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–11478 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology Technical Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology Technical Advisory Committee (ETTAC) will meet on June 16, 2022, at 11:00 a.m., Eastern

Daylight Time. The meeting will be available via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on the identification of emerging and foundational technologies with potential dual-use applications as early as possible in their developmental stages both within the United States and abroad.

Agenda

Open Session

1. Welcome and Introductions.

2. Introduction by the Bureau of Industry and Security Leadership.

3. Presentation: Assessing Emerging Technologies (by Daniel M. Gerstein, Ph.D.).

4. Questions and Answers.

5. Public Comments/Announcements.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than June 9, 2022.

To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 1, 2022, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, please contact Yvette Springer via email.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2022–11492 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Offsets in Military Exports

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 January 14, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security, Commerce.

Title: Offsets in Military Exports.

OMB Control Number: 0694–0084.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 30.

Average Hours per Response: 12 hours.

Burden Hours: 360.

Needs and Uses: This collection of information is required by the Defense Production Act (DPA). The DPA requires U.S. firms to furnish information to the Department of Commerce regarding offset agreements exceeding $5,000,000 in value associated with sales of weapon systems or defense-related items to foreign countries or foreign firms. Offsets are industrial or commercial compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services as defined by the Arms Export Control Act and the International Traffic in Arms Regulations. Such offsets are required by most major trading partners when purchasing U.S. military equipment or defense related items.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Defense Production Act of 1950, Section 309.

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 0694–0084.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–11465 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–143]

Freight Rail Coupler Systems and Certain Components Thereof From the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less-than-fair value (LTFV) during the period of investigation, January 1, 2021, through June 30, 2021.

DATES: Applicable May 27, 2022.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2593.

SUPPLEMENTARY INFORMATION:

Background

On March 15, 2022, Commerce published in the **Federal Register** the *Preliminary Determination* in this investigation.[1] The deadline for the final

[1] *See Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less-Than-Fair Value,* 87 FR 14511 (March

Continued

determination in this investigation is May 23, 2022.

On April 11, 2022, we issued a post-preliminary decision memorandum addressing a scope issue raised in the context of this and the companion countervailing duty investigation, in which we preliminarily found that it was unnecessary to alter the scope stated in the *Initiation Notice*.[2] We received case briefs addressing this preliminary scope decision from two importers of subject merchandise, Strato, Inc. (Strato) and Wabtec Corporation (Wabtec), on April 18, 2022,[3] and rebuttal comments from the petitioner on April 22, 2022.[4]

We received no comments or case briefs addressing any of the other findings in the *Preliminary Determination;* therefore, there is no Issues and Decision Memorandum accompanying this notice.

Period of Investigation

The period of investigation is January 1, 2021, through June 30, 2021.

Scope of the Investigation

The products covered by this investigation are freight rail coupler systems and certain components thereof from China. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

In Commerce's *Preliminary Determination,*[5] we set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope) in scope case briefs or other written comments on scope issues. As noted above, the petitioner and two interested parties, Strato and Wabtec, commented on the scope of the investigation as it appeared in the *Initiation Notice*[6] and *Preliminary Determination*.[7] For a summary of the product coverage comments and rebuttal comments, and an analysis of all comments received, *see* the final scope memorandum issued concurrently with this final determination.[8] For the reasons discussed in the final scope memorandum, Commerce is not modifying the scope language as it appeared in the *Initiation Notice. See* the final ''Scope of the Investigation'' in the appendix to this notice.

China-Wide Entity and Use of Adverse Facts Available (AFA)

For the purposes of this final determination, consistent with the *Preliminary Determination,*[9] we relied solely on the application of AFA for the China-wide entity, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). Further, because no companies are eligible for a rate separate from the China-wide entity, we continue to find that all exporters of Chinese freight rail couplers are part of the China-wide entity. No interested party submitted comments on the *Preliminary Determination.* Thus, we made no changes to our analysis or to the China-wide entity's dumping margin for the final determination. A detailed discussion of our application of AFA is provided in the *Preliminary Determination*.[10]

Combination Rates

Because no Chinese exporters qualified for a separate rate, producer/exporter combination rates were not calculated for this final determination.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Estimated weighted-average dumping margin adjusted for export subsidy offset(s) (percent)
China-Wide Entity	147.11	116.70

Disclosure

Because Commerce continues to find that all Chinese exporters of freight rail couplers are part of the China-wide entity and continues to rely solely on the application of AFA for the China-wide entity, there are no calculations to disclose for this final determination.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of subject merchandise as described in the ''Scope of the Investigation'' section entered, or withdrawn from warehouse, for consumption, on or after March 15, 2022, which is the date of publication of the *Preliminary Determination* in the **Federal Register**, at the cash deposit rate indicated above.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the amount by which the normal value exceeds the U.S. price as follows: (1) For all Chinese exporters of subject merchandise, the cash deposit rate will be equal to the estimated dumping margin established for the China-wide entity; and (2) for all third country exporters of subject merchandise, the cash deposit rate is also the cash deposit rate applicable to the China-wide entity. These suspension of liquidation instructions will remain in effect until further notice.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we intend to issue an antidumping duty order and continue to require a cash deposit of estimated antidumping duties

15, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Antidumping and Countervailing Duty Investigations of Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Post-Preliminary Scope Decision Memorandum,'' dated April 11, 2022; *see also See Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 86 FR 58864 (October 25, 2021) (*Initiation Notice*).

[3] *See* Strato's Letter, ''Strato Scope Case Brief,'' dated April 18, 2022; and Wabtec's Letter, ''Case Brief On Post-Preliminary Scope Decision,'' dated April 18, 2022.

[4] The petitioner is the Coalition of Freight Coupler Producers. *See* Petitioner's Letter, ''Rebuttal Brief,'' dated April 25, 2022.

[5] *See Preliminary Determination,* 87 FR 14513.

[6] *See Initiation Notice,* 86 FR 58869.

[7] *See Preliminary Determination,* 87 FR 14513–14.

[8] *See* Memorandum, ''Final Scope Memorandum,'' dated concurrently with, and hereby adopted by, this notice.

[9] *See Preliminary Determination* PDM at 6–9.

[10] *Id.*

for such entries of subject merchandise in the amounts indicated above, in accordance with section 736(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of freight rail couplers from China no later than 45 days after our final determination.

If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded or canceled, as Commerce determines to be appropriate. If the ITC determines that such injury does exist, Commerce intends to issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an 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/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in pursuant to sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 23, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (*e.g.,* coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M–211, ''Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts'' or AAR M–215 ''Coupling Systems,'' or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject coupler systems and components, whether fully assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

[FR Doc. 2022–11480 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB758]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to New England Wind, Phase 1 Park City Wind Marine Site Characterization Surveys

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Park City Wind LLC (PCW) for authorization to take marine mammals incidental to marine site characterization surveys for Phase 1 of the New England Wind Project located in the Bureau of Ocean Energy Management (BOEM) Lease Area OCS–A0534 (Lease Area) in waters offshore of Massachusetts south through Long Island, New York. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments

prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than June 27, 2022.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to *ITP.Potlock@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

NMFS will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 17, 2021, NMFS received a request from PCW for an IHA to take marine mammals incidental to marine site characterization surveys for Phase 1 of the New England Wind Project located in the Bureau of Ocean Energy Management (BOEM) Lease Area OCS–A0534 (Lease Area) in waters offshore of Massachusetts south through Long Island, New York. Following NMFS' review of the draft application, revised versions were submitted on February 14, 2022 and March 25, 2022. The March 2022 revised version was deemed adequate and complete March 25, 2022. PCW's request is for take of 16 species of marine mammals, by Level B harassment only. Neither PCW nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. The proposed IHA would be effective for one year upon issuance.

Description of Proposed Activity

Overview

New England Wind is located in the BOEM Lease Area OCS–A0534 and is comprised of Phase 1 PCW and Phase 2 Commonwealth Wind (CW), along with associated offshore and onshore cabling, onshore substations, and onshore operations and maintenance (O&M) facilities (Figure1). Phase 2 is not part of this application. As part of its overall marine site characterization survey operations, PCW proposes to conduct high-resolution geophysical (HRG) surveys in the Lease Area.

The purpose of the marine site characterization surveys are to obtain an assessment of seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of a planned offshore wind facility development area. Underwater sound resulting from PCW's proposed site characterization survey activities, specifically HRG surveys, has the potential to result in incidental take of marine mammals in the form of Level B harassment.

Dates and Duration

PCW anticipates that HRG survey activities would occur on approximately 636 vessel days, with an assumed daily survey distance of 80 km per vessel. This schedule is based on assumed 24-hour operations. Each day that a vessel surveys approximately 80 km within 24 hours would count as a single survey day, *e.g.,* two survey vessels operating on the same day would count as two survey days. The use of concurrently surveying vessels would facilitate completion of all 636 vessel days within one year. PCW proposes to begin survey activities upon receipt of an IHA and continue for up to one year (though the actual duration will likely be shorter, particularly given the use of multiple vessels). The IHA would be effective for one year from the date of issuance. Site characterization activities within the Potential Survey Area are anticipated to begin May 2022 and will last up to one year with a total of 636 active sound source days. The number of active sound source days was calculated by dividing the total survey trackline

(50,880 kilometers (km)) by the approximate survey distance per day (80 km) anticipated to be achieved. Survey operations are proposed to be conducted 24 hours per day to minimize the overall duration of survey activities and the associated period of potential impact on marine species. While the HRG survey activities are estimated to occur over the course of a full year, the actual survey duration will be shorter given the use of multiple vessels.

Specific Geographic Region

HRG survey activities are proposed to occur in both Federal offshore waters (including Lease Area OCS–A 0534) and along potential OECCs in both Federal and State nearshore waters of Massachusetts, Rhode Island, Connecticut, and New York. The proposed survey will be acquired within the area illustrated in Figure 1. Water depths in the lease area range from about 35 to 60 meters (m) (115 to 197 feet (ft)). Water depths along the potential OECCs range from 2.5 m to >35 m (8 to >115 ft).

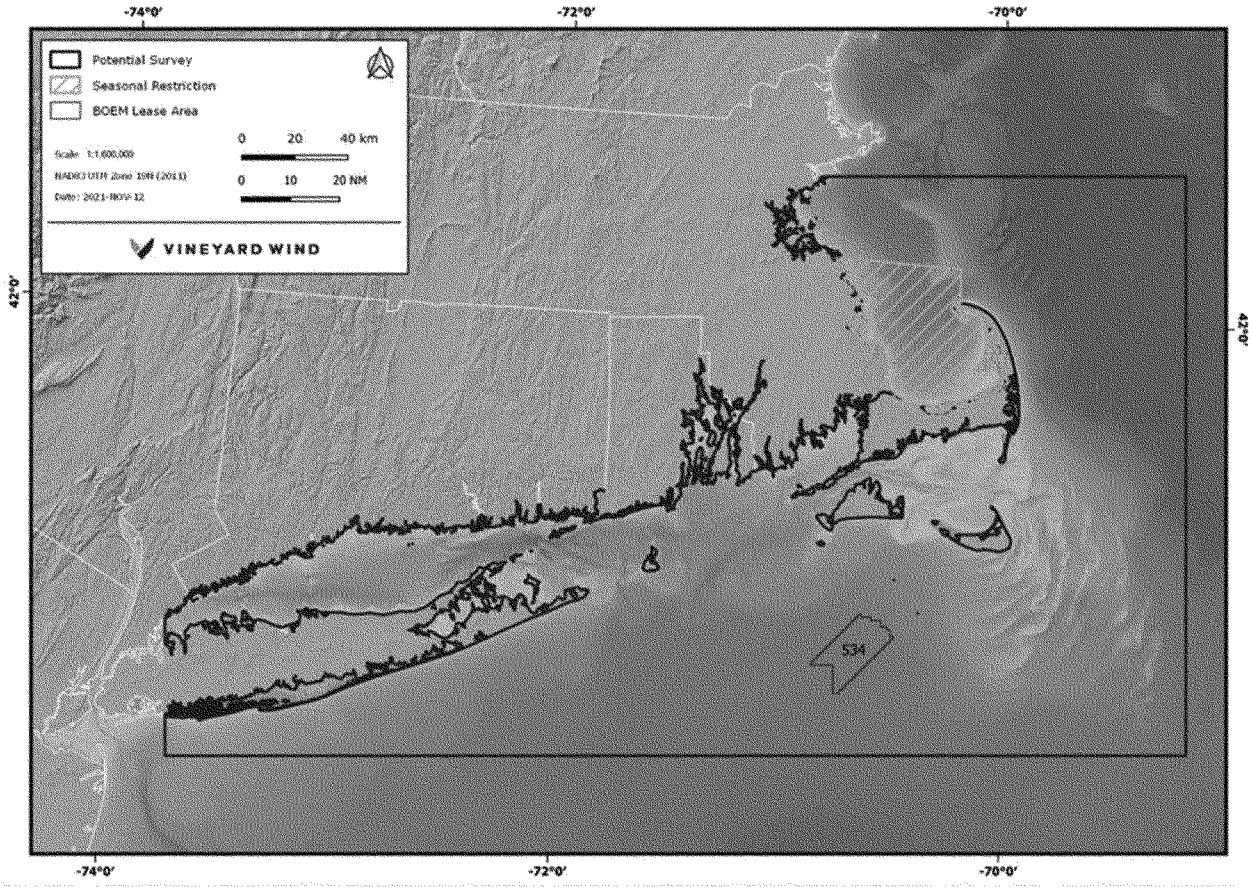

Figure 1 -- Proposed HRG survey area.

Detailed Description of Specific Activity

PCW proposes to conduct HRG survey operations, which may include single and multibeam depth sounding, seafloor imaging, and shallow and medium penetration sub-bottom profiling. The HRG surveys may be conducted using any or all of the following equipment types: Side scan sonar, multibeam echosounder, magnetometers and gradiometers, parametric sub-bottom profiler (SBP), compressed high intensity radar pulse (CHIRP) SBP, boomers, or sparkers. Vessels would generally conduct survey effort at a transit speed of approximately 4 knots (kn; 2.1 meters per sec, m/s), which equates to 110 km per 24-hr period. However, based on past survey experience (*i.e.,* knowledge of typical daily downtime due to weather, system malfunctions, etc.), PCW assumes 80 km as the average distance surveyed per 24 hours. On this basis (and as mentioned previously), a total of 636 survey days are expected.

To facilitate completion of all 636 survey days across the survey area (see Figure 1) within one year, PCW proposes to use multiple vessels to acquire the HRG survey data. Up to three HRG vessels are currently proposed to operate concurrently within the survey area. HRG survey activities will be conducted by vessels that can accomplish the survey goals in specific survey areas. Each vessel will maintain both the required course and a survey speed required to cover approximately 80 km (43 nm) per day during line acquisition, with consideration to weather delays, equipment maintenance, and crew availability. Vessel survey speed is anticipated to be approximately 4 knots (2.1 m/s).

Acoustic sources planned for use during the proposed HRG survey activities include the following (operating frequencies are presented in hertz (Hz) and kilohertz (kHz):

- Shallow penetration non-impulsive, non-parametric sub-bottom profilers (*i.e.,* CHIRP SBPs) are used to map the near-surface stratigraphy (top 0 to 5 m (0 to 16 feet (ft))) of sediment below

seabed). A CHIRP system emits sonar pulses that increase in frequency from about 2 to 20 kHz over time. The frequency range can be adjusted to meet project variables. Rather than being towed, these sources are typically mounted on a pole or the hull of the vessel, reducing the likelihood that an animal would be exposed to the signal; and,

▪ Medium penetration, impulsive sources (*i.e.,* boomers and sparker) are used to map deeper subsurface stratigraphy. A boomer is a broadband source operating in the 3.5 Hz to 10 kHz frequency range. Sparkers create omnidirectional acoustic pulses from 50 Hz to 4 kHz that can penetrate several hundred meters into the seafloor. These sources are typically towed behind the vessel.

Operation of the following survey equipment types is not expected to present reasonable risk of marine mammal take, and will not be discussed further beyond the brief summaries provided below.

• Non-impulsive, parametric SBPs are used for providing high density data in sub-bottom profiles that are typically required for cable routes, very shallow water, and archaeological surveys. These sources generate short, very narrow-beam (1° to 3.5°) signals at high frequencies (generally around 85–100 kHz). The narrow beamwidth significantly reduces the potential that a marine mammal could be exposed to the signal, while the high frequency of operation means that the signal is rapidly attenuated in seawater. These sources are typically mounted on the hull of the vessel or deployed from a side pole rather than towed behind the vessel.

• Ultra-short baseline (USBL) positioning systems are used to provide high accuracy ranges by measuring the time between the acoustic pulses transmitted by the vessel transceiver and a transponder (or beacon) necessary to produce the acoustic profile. It is a two-component system with a pole-mounted transceiver and one or several transponders mounted on other survey equipment. USBLs are expected to produce extremely small acoustic propagation distances in their typical operating configuration.

• Single and Multibeam echosounders (MBESs) are used to determine water depths and general bottom topography. The proposed MBESs all have operating frequencies >180kHz and are therefore outside the general hearing range of marine mammals.

• Side scan sonar (SSS) is used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The proposed SSSs all have operating frequencies >180 kHz and are therefore outside the general hearing range of marine mammals.

HRG survey activities will occur in discrete segments corresponding to the following general areas:

• Lease Area OCS–A 0534—Inclusive of potential wind turbine generator (WTG) locations, electrical service platform (ESP) location(s), and inter-array cable corridors; and

• OECC route—One or more potential OECC routes through Federal and State waters located within the Potential Survey Area from northern Massachusetts to Long Island as shown in Figure 1.

The maximum survey area has been selected to provide operational flexibility and to cover the possibility of multiple landfall locations associated with the OECC. Track line spacing for HRG survey activities will align with BOEM Guidelines for Providing Archaeological and Historic Property Information pursuant to 30 CFR part 585 (March 2017) and for Providing Geophysical, Geotechnical, and Geohazard Information pursuant to 30 CFR part 585 (July 2015) (BOEM 2015). Surveys are planned to support standard geophysical, geotechnical, and geohazard investigations as well as potential unexploded ordnance (UXO) and benthic habitat studies.

TABLE 1—SUMMARY OF REPRESENTATIVE HRG EQUIPMENT

Equipment	System	Frequency (kHz)	Beam width (°)	Pulse duration (ms)	Repetition rate (Hz)	In-beam		Correction (dB)	Out-of-beam	
						Source level (dB re 1 μPa m)	Peak source level (dB re 1 μPa m)		Source level (dB re 1 μPa m)	Peak source level (dB re 1 μPa m)
Shallow subbottom profiler.	EdgeTech Chirp 216	2–16	65	2	3.75	178	182	−8.1	169.9	173.9
Deep seismic profiler.	Applied Acoustics AA251 Boomer.	0.2–15	180	0.8	2	205	212	0.0	205.0	212.0
	GeoMarine Geo Spark 2000 (400 tip).	0.05–3	180	3.4	1	203	213	0.0	203.0	213.0

Note: Edge Tech Chirp 512i used as proxy source for Edge Tech 216, as Chirp 512i has similar operation settings as Chirp 216. SIG ELC 820 Sparker used as proxy for GeoMarine Geo Spark 2000 (400 tip), as SIG ELC 820 has similar operation settings as Geo Spark 2000. See Crocker and Fratantonio (2016) and Appendix A of PCW's application for more information.
dB—decibel, RMS—Root mean square, 1 μPa – 1 microPascal.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, NMFS follows the Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS'

SARs). While no mortality is anticipated or would be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs. All values presented in Table 2 are the most recent available at the time of publication and are available in the Draft 2021 SARs (Hayes *et al.,* 2021), available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.*

TABLE 2—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE AFFECTED BY PCW'S ACTIVITY

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale [4]	*Eubalaena glacialis*	Western North Atlantic (WNA)	E/D; Y	368 (0; 364; 2019)	0.7	7.7
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-/-; Y	1,393 (0.15; 1,375; 2016)	22	58
Fin whale	*Balaenoptera physalus*	WNA	E/D; Y	6,802 (0.24; 5,573; 2016)	11	2.35
Sei whale	*Balaenoptera borealis*	Nova Scotia	E/D; Y	6,292 (1.02; 3,098; 2016)	6.2	1.2
Minke whale	*Balaenoptera acutorostrata*	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016).	170	10.6
Blue whale	*Balaenoptera musculus*	WNA	E/D; Y	Unknown (unknown; 402; 2019).	0.8	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter macrocephalus*	North Atlantic	E/D; Y	4,349 (0.28;3,451; 2016)	3.9	0
Family Delphinidae:						
Long-finned pilot whale	*Globicephala melas*	WNA	-/-; N	39,215 (0.30; 30,627; 2016).	306	29
Short finned pilot whale	*Globicephala macrorhynchus*	WNA	-/-; N	28,924 (0.24; 23,637; 2016).	236	136
Bottlenose dolphin	*Tursiops truncatus*	WNA Offshore	-/-; N	62,851 (0.23; 51,914; 2016).	519	28
		WNA Northern Migratory Coastal.	-/D;Y	6,639 (0.41, 4,759, 2016)	48	12.2–21.5
Common dolphin	*Delphinus delphis*	WNA	-/-; N	172,974 (0.21; 145,216; 2016).	1,452	390
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	WNA	-/-; N	93,233 (0.71; 54,443; 2016).	544	27
Atlantic spotted dolphin	*Stenella frontalis*	WNA	-/-; N	39,921 (0.27; 32,032; 2016).	320	0
Risso's dolphin	*Grampus griseus*	WNA	-/-; N	35,215 (0.19; 30,051; 2016).	303	54.3
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-/-; N	95,543 (0.31; 74,034; 2016).	851	164
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Gray seal [5]	*Halichoerus grypus*	WNA	-/-; N	27,300 (0.22; 22,785, 2029).	1,458	4,453
Harbor seal	*Phoca vitulina*	WNA	-/-; N	61,336 (0.08; 57,637, 2020).	1,729	339

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] The draft 2022 SARs have yet to be released; however, NMFS has updated its species web page to recognize the population estimate for NARWs is now below 350 animals (*https://www.fisheries.noaa.gov/species/north-atlantic-right-whale*).

[5] NMFS' gray seal stock abundance estimate (and associated PBR value) applies to U.S. population only. Total stock abundance (including animals in Canada) is approximately 450,000. The annual M/SI value given is for the total stock.

As indicated above, all 16 species in Table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. In addition to what is included in Sections 3 and 4 of the application, the SARs,

and NMFS' website, further detail informing the baseline for select species (*i.e.,* information regarding current Unusual Mortality Events (UME) and important habitat areas) is provided below.

North Atlantic Right Whale

The North Atlantic right whale (NARW) is considered one of the most critically endangered populations of large whales in the world and has been listed as a Federal endangered species since 1970. The Western Atlantic stock is considered depleted under the MMPA (Hayes *et al.* 2021). There is a recovery plan (NOAA Fisheries 2017) for the NARW and recently there was a five-year review of the species (NOAA Fisheries 2017). The NARW had a 2.8 percent recovery rate between 1990 and 2011 (Hayes *et al.* 2021).

Elevated NARW mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast with the leading category for the cause of death for this UME as ''human interaction,'' specifically from entanglements or vessel strikes. As of April 11, 2022, a total of 34 confirmed dead stranded whales (21 in Canada; 13 in the United States) have been documented. The cumulative total number of animals in the NARW UME has been updated to 50 individuals to include both the confirmed mortalities (dead stranded or floaters) (n=34) and seriously injured free-swimming whales (n=16) to better reflect the confirmed number of whales likely removed from the population during the UME and more accurately reflect the population impacts. More information is available online at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2022-north-atlantic-right-whale-unusual-mortality-event.*

NMFS' regulations at 50 CFR part 224.105 designated nearshore waters of the Mid-Atlantic Bight as Mid-Atlantic U.S. Seasonal Management Areas (SMAs) for North Atlantic right whales in 2008. SMAs were developed to reduce the threat of collisions between ships and North Atlantic right whales around their migratory route and calving grounds. The survey area overlaps with the Cape Cod Bay (active between January 1 and May 15), Off Race Point (active between March 1 and April 30), Great South Channel (active between April 1 and July 31), and Mid-Atlantic Migratory (active between November 1 and April 30) SMAs.

The proposed survey area also partially overlaps with the North Atlantic right whale feeding Biologically Important Areas (BIAs). One feeding BIA is located north of the HRG Survey Area at Cape Cod Bay and Massachusetts Bay and occurs from February-April, and another is located northeast of the HRG Survey Area in the Great South Channel, from April-June. The proposed survey also overlaps with part of the migratory corridor BIA for North Atlantic right whales (March-April and November-December) that extends from the coast to the continental shelf break, and from Massachusetts to Florida (LeBrecque *et al.,* 2015). A map showing designated BIAs is available at: *https://cetsound.noaa.gov/biologically-important-area-map.* In addition to currently designated feeding BIAs, Oleson *et al.* (2020) identified the area south of Martha's Vineyard and Nantucket, referred to as ''South of the Islands,'' as a newer, year-round, core North Atlantic right whale foraging habitat. The South of the Islands area is also within the bounds of the proposed survey area.

There are two designated critical habitat areas for the NARW, one of which overlaps the project area: The Gulf of Maine/Georges Bank region is located northeast of the HRG survey area, but parts of it overlap the proposed survey area, and the southeast calving grounds from North Carolina to Florida (NMFS 2016a) which does not overlap the survey area. All vessels greater than 19.8 m (65 ft) in overall length must operate at speeds of 10 knots (5.1 meters per second (m/s)) or less within these areas during specific time periods.

Humpback Whale

NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62260; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area. Bettridge *et al.* (2015) estimated the size of this population at 12,312 (95 percent CI 8,688–15,954) whales in 2004–05, which is consistent with previous population estimates of approximately 10,000–11,000 whales (Stevick *et al.,* 2003; Smith *et al.,* 1999) and the increasing trend for the West Indies DPS (Bettridge *et al.,* 2015). Whales occurring in the survey area are considered to be from the West Indies DPS, but are not necessarily from the Gulf of Maine feeding population managed as a stock by NMFS. Barco *et al.,* 2002 estimated that, based on photo-identification, only 39 percent of individual humpback whales observed along the mid- and south Atlantic U.S. coast are from the Gulf of Maine stock. The northern and most eastern portions of the proposed survey area partially overlap with the humpback whale feeding BIA (March through December), which extends throughout the Gulf of Maine, Stellwagen Bank, and Great South Channel (LeBrecque *et al.,* 2015).

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the 158 known cases (as of April 11, 2022). Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. More information is available at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2022-humpback-whale-unusual-mortality-event-along-atlantic-coast.*

Minke Whale

Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina, with a total of 122 strandings (as of April 11, 2022). This event has been declared a UME. Full or partial necropsy examinations were conducted on more than 60 percent of the whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2022-minke-whale-unusual-mortality-event-along-atlantic-coast.*

The northern and most eastern portions of the proposed survey area partially overlap with one of the minke whale feeding BIAs (March through November), which includes the southern and southwestern section of the Gulf of Maine, including Georges Bank, the Great South Channel, Cape Cod Bay and Massachusetts Bay,

Stellwagen Bank, Cape Anne, and Jeffreys Ledge (LeBrecque *et al.,* 2015).

Other Biologically Important Areas for Large Whales

The survey area is flanked by two BIAs for feeding fin whales, the area to the northeast of Cape Cod is considered a BIA year-round, while the area off the tip of Long Island overlapping with the southwest area of the HRG survey area is a BIA from March to October (LaBrecque *et al.* 2015). Both of these BIAs are located within the proposed survey area. For sei whales, a BIA for feeding occurs both to the north and to the east of the HRG survey area from May through November (LaBrecque et al. 2015). A portion of the BIA is located within the proposed survey area.

Seals

Since July 2018, elevated numbers of harbor seal and gray seal mortalities have occurred across Maine, New Hampshire and Massachusetts. This event was declared a UME. Additionally, stranded seals have shown clinical signs as far south as Virginia, although not in elevated numbers, therefore the UME investigation now encompasses all seal strandings from Maine to Virginia. Ice seals (harp and hooded seals) have also been stranding with clinical signs, again not in elevated numbers, and those two seal species have also been added to the UME investigation. A total of 3,152 reported strandings (of all species) had occurred from July 1, 2018, through March 13, 2020. Full or partial necropsy examinations have been conducted on some of the seals and samples have been collected for testing. Based on tests conducted thus far, the main pathogen found in the seals is phocine distemper virus. NMFS is performing additional testing to identify any other factors that may be involved in this UME. Closure of this UME is pending. Information on this UME is available online at: *www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018–2020-pinniped-unusual-mortality-event-along.*

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Sixteen marine mammal species (14 cetacean and 2 pinniped (both phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, six are classified as low-frequency cetaceans (*i.e.,* all mysticete species), seven are classified as mid-frequency cetaceans (*i.e.,* all delphinid species and the sperm whale), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that PCW's specified activity may impact marine mammals and their habitat. Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for survey activities using the same methodology, over a similar amount of time, in Atlantic waters. (*e.g.,* 82 FR 20563, May 3, 2017; 85 FR 36537, June 17, 2020; 85 FR 37848, June 24, 2020; 85 FR 48179, August 10, 2020, 86 FR 11239, February 24, 2021; 86 FR 28061, May 25, 2021). No significant new information is available, and we refer the reader to these documents rather than repeating the details here. The Estimated Take section includes a quantitative analysis of the number of individuals that are expected to be taken by PCW's activity. The Negligible Impact Analysis and Determination section considers the potential effects of the specified activity, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts

of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Background on Active Acoustic Sound Sources and Acoustic Terminology

This subsection contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to the summary of the potential effects of the specified activity on marine mammals. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude. Therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources). The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals

that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Sparkers and boomers produce pulsed signals with energy in the frequency ranges specified in Table 1. The amplitude of the acoustic wave emitted from sparker sources is equal in all directions (*i.e.,* omnidirectional), while other sources planned for use during the proposed surveys have some degree of directionality to the beam, as specified in Table 1. Other sources planned for use during the proposed survey activity (*e.g.,* CHIRP SBPs) should be considered non-pulsed, intermittent sources.

Summary on Specific Potential Effects of Acoustic Sound Sources

Underwater sound from active acoustic sources can include one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking. The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007).

Animals in the vicinity of PCW's proposed HRG survey activity are unlikely to incur even TTS due to the characteristics of the sound sources, which include relatively low source levels (178 to 205 dB re 1 µPa-m) and generally very short pulses and potential duration of exposure. These characteristics mean that instantaneous exposure is unlikely to cause TTS, as it is unlikely that exposure would occur close enough to the vessel for received levels to exceed peak pressure TTS criteria, and that the cumulative duration of exposure would be insufficient to exceed cumulative sound exposure level (SEL) criteria. Even for high-frequency cetacean species (*e.g.,* harbor porpoises), which have the greatest sensitivity to potential TTS, individuals would have to make a very close approach and also remain very close to vessels operating these sources in order to receive multiple exposures at relatively high levels, as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.,* intermittent exposure results in lower levels of TTS). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range. Further, the restricted beam shape of many of HRG survey devices planned for use (Table 1) makes it unlikely that an animal would be exposed more than briefly during the passage of the vessel.

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal.

In addition, sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. Marine mammal communications would not likely be masked appreciably by the acoustic signals given the directionality of the signals for most HRG survey equipment types proposed for use (Table 1) and the brief period when an individual mammal is likely to be exposed.

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton) (*i.e.,* effects to marine mammal habitat). Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. The most likely impacts (if any) for most prey species in a given area would be temporary avoidance of the area. Surveys using active acoustic sound sources move through an area relatively quickly, limiting exposure to multiple pulses. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly. Finally, the HRG survey equipment will not have significant impacts to the seafloor and does not represent a source of pollution.

Vessel Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to

large vessels. Ship strikes generally involve commercial shipping vessels, which are generally larger and of which there is much more traffic in the ocean than geophysical survey vessels. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4 knots (4.6 mph). At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be discountable. At average transit speed for geophysical survey vessels, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again low given the smaller size of these vessels and generally slower speeds. Notably in the Jensen and Silber study, no strike incidents were reported for geophysical survey vessels during that time period.

The potential effects of PCW's specified survey activity are expected to be limited to Level B behavioral harassment. No permanent or temporary auditory effects, or significant impacts to marine mammal habitat, including prey, are expected.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to noise from certain HRG acoustic sources. Based primarily on the characteristics of the signals produced by the acoustic sources planned for use, Level A harassment is neither anticipated (even absent mitigation), nor proposed to be authorized. Consideration of the anticipated effectiveness of the mitigation measures (*i.e.,* pre-start clearance and shutdown measures), discussed in detail below in the Proposed Mitigation section, further strengthens the conclusion that Level A harassment is not a reasonably anticipated outcome of the survey activity. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS uses acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals may be behaviorally harassed (*i.e.,* Level B harassment) when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 µPa (rms) for the impulsive sources (*i.e.,* boomers, sparkers) and non-impulsive, intermittent sources (*e.g.,* CHIRP SBPs) evaluated here for PCW's proposed activity.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). For more information, see NMFS' 2018 Technical Guidance, which may be accessed at *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

PCW's proposed activity includes the use of impulsive (*i.e.,* sparkers and boomers) and non-impulsive (*e.g.,* CHIRP SBP) sources. However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise through use of the sources proposed for use here, and the potential for Level A harassment is not evaluated further in this document. Please see PCW's application for details of a quantitative exposure analysis exercise, *i.e.,* calculated Level A harassment isopleths and estimated Level A harassment exposures. Maximum estimated Level A harassment isopleths were less than 4 m for all sources and hearing groups with the exception of an estimated 53 m zone calculated for high-frequency cetaceans during use of the Boomer, respectively. PCW did not request authorization of take by Level A harassment, and no take by Level A harassment is proposed for authorization by NMFS.

Ensonified Area

NMFS has developed a user-friendly methodology for estimating the extent of the Level B harassment isopleths associated with relevant HRG survey equipment (NMFS, 2020). This methodology incorporates frequency and directionality to refine estimated ensonified zones. For acoustic sources that operate with different beamwidths, the maximum beamwidth was used, and the lowest frequency of the source was used when calculating the frequency-dependent absorption coefficient (Table 1).

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and, therefore, recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to harassment thresholds. In cases when the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends that either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 shows the HRG equipment types that may be used during the proposed surveys and the source parameters associated with those HRG equipment types.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment planned for use by PCW that has the potential to result in Level B harassment of marine mammals, the Applied Acoustics AA251 Boomer would produce the largest Level B harassment isopleth (178 m). Estimated Level B harassment isopleths for all sources evaluated here are provided in Table 4. Although PCW does not expect to use the AA251 Boomer source on all planned survey days, it proposes to assume, for purposes of analysis, that the boomer sources would be used on all survey days and across all hours within a given survey day. This is a conservative approach, as the actual sources used on individual survey days, or during a portion of a survey day, may produce smaller distances to the Level B harassment isopleth.

TABLE 4—DISTANCES TO LEVEL B HARASSMENT THRESHOLD

[160 dB rms]

Equipment	System	Frequency (kHz)	Beam width (°)	Source level (dB re 1 μPa m)	Level B harassment horizontal impact distance (m)
Shallow subbottom profiler	EdgeTech Chirp 216	2–16	65	178	4
Deep seismic profiler	Applied Acoustics AA251 Boomer	0.2–15	180	205	178
	GeoMarine Geo Spark 2000 (400 tip).	0.05–3	180	203	141

Marine Mammal Occurrence

In this section, NMFS provides information about the presence, density, or group dynamics of marine mammals that informs the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018, 2021) represent the best available information regarding marine mammal densities in the survey area. The density data presented by Roberts *et al.* (2016, 2017, 2018, 2021) incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016). In subsequent years, certain models have been updated based on additional data as well as certain methodological improvements. More information is available online at *seamap.env.duke.edu/models/Duke-EC/.*

Marine mammal density estimates in the survey area (animals/km^2) were obtained using the most recent model results for all taxa (Roberts *et al.,* 2016, 2017, 2018, 2021). The updated models incorporate additional sighting data, including sightings from NOAA's Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys. Those data provide abundance estimates for species or species guilds within 10 km x 10 km grid cells (100 km^2), or in the case of NARW densities within 5 km x 5 km grid cells, on a monthly or annual basis, depending on the species. Using geographic information system (GIS) (ESRI 2017), the proposed survey area and the NARW SMA polygons were used to select grid cells from the Roberts *et al.* (2016; 2017; 2018; 2021) data that contain the most recent monthly or annual estimates for each species for the months of May through December. For the months of January through April, only the proposed survey area polygon was used to select density grid cells since it excludes waters within Cape Cod Bay where no surveys will occur from January 1 through May 15. The average monthly abundance for each species was calculated as the mean value of all grid cells within the survey area and then converted to density (individuals/km^2) by dividing by 100 km^2. Finally, an average annual density was calculated by taking the mean across all 12 months for each species (see Table 8 of the application).

The estimated monthly density of seals provided in Roberts *et al.* (2018) includes all seal species present in the region as a single guild. To split the resulting ''seal'' density-based exposure estimate by species, the estimate was multiplied by the proportion of the combined abundance attributable to each species. Specifically, the SAR abundance estimates (Hayes *et al.* 2021) were summed for the two species (gray seal = 27,300, harbor seal = 61,336; total = 88,636) and the total divided by the estimate for each species to get the proportion of the total for each species (gray seal = 0.308; harbor seal = 0.692). The total estimated exposure from the ''seal'' density provide by Roberts *et al.* (2018) was then multiplied by these proportions to get the species specific exposure estimates.

Densities from each of the selected density blocks were averaged for each month available to provide monthly density estimates for each species (when available based on the temporal resolution of the model products), along with the average annual density. Please see Tables 8 and 9 of PCW's application for density values used in the exposure estimation process. Additional data regarding average group sizes from survey effort in the region was considered to ensure adequate take estimates are evaluated (see Table 10 of the application).

Take Calculation and Estimation

Here NMFS describes how the information provided above is brought

together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to Level B harassment thresholds are calculated, as described above. The maximum distance (*i.e.,* 178 m distance associated with the boomer) to the Level B harassment criterion and the estimated trackline distance traveled per day by a given survey vessel (*i.e.,* 80 km) was used to calculate the daily ensonified area, or zone of influence (ZOI) around the survey vessel. This distance was multiplied by two times the average daily survey distance (80 km) and the area of a circle with radius 178 m was added to the result to calculate the daily ZOI (28.6 km^2). The daily ZOI was then multiplied by the total number of expected survey days (636) to estimate the total ZOI for the proposed surveys (18,177 km^2).

Potential Level B harassment exposures are estimated by multiplying the average annual density of each species within either the Lease Area or potential ECR area by the total ZOI for the planned surveys. Those results are shown in Table 5.

The larger of the two estimates from the approaches described above: Density-based exposure estimates or mean group size was then selected as the requested take as shown in Table 5. In cases where the calculations resulted in a non-integer, the result was rounded up to the nearest whole number since it is not logical to request a partial take. Additionally, based on observational data collected during prior HRG surveys in this area, the density of common dolphins predicted by the Roberts *et al.* (2018) model does not appear to adequately reflect the number of dolphins that may be encountered during the planned surveys. Data collected by Protected Species Observers (PSOs) on survey vessels operating in 2020–2021 showed an average of approximately 16 common dolphins may be observed within 200 m of a vessel (the approximate Level B harassment distance) per survey day. Multiplying the anticipated 636 survey days by 16 common dolphins per day results in a potential estimated take of 10,176 common dolphins so this has been used as the requested take of common dolphins shown in Table 5.

For the ''seal'' guild in the Roberts *et al.* (2018) densities, the exposure estimate was split by species using the relative abundance for the two species to produce the species-specific requested take.

For Bottlenose dolphins, the offshore morphotype inhabits the outer continental slope and shelf edge regions from Georges Bank to the Florida Keys, while the coastal morphotype is continuously distributed along the Atlantic Coast from south of New York to the Florida Peninsula (Hayes *et al.* 2020)). Offshore common bottlenose dolphin sightings occur from Cape Hatteras to the eastern end of Georges Bank (Kenney 1990). The western North Atlantic offshore stock is distributed primarily along the OCS and continental slope, from Georges Bank to Cape Hatteras during spring and summer (CeTAP 1982). Bottlenose dolphins encountered in the survey area would likely belong to the Western North Atlantic Offshore stock, so all takes are being requested from this stock. However, it is possible that a few animals encountered during the surveys could be from the North Atlantic Northern Migratory Coastal stock, but chance of occurrence is low, and no take from this species is proposed. Similarly, based on the distributions described in Hayes *et al.* (2020, 2021b), pilot whale sightings in the Lease Area would most likely be long-finned pilot whales, so all pilot whale takes being requested are for long-finned pilot whales.

For NARWs, the implementation of a 500 m acoustic shutdown zone and the 500 m vessel separation distance identified in the vessel strike avoidance measures means that the likelihood of an exposure to received sound levels greater than 160 dB SPLrms is very low. As a precautionary measure, takes by Level B harassment are requested for the proposed survey.

TABLE 5—PROPOSED TAKES BY LEVEL B HARASSMENT AND PERCENTAGES OF EACH SPECIES OR STOCK ABUNDANCE

Taxonomic group	Common name	Stock (NEST) [a]	Density based exposures	Mean group size	Proposed take by level B harassment	Percent of stock
Cetacean (Mysticete)	North Atlantic right whale.	Western Atlantic Stock (368).	29	2.4	30	8.2.
	Blue whale	Western North Atlantic Stock (402).	0	1.0	1	Less than 1 percent.
	Fin whale	Western North Atlantic Stock (6,802).	59	1.8	60	Less than 1 percent.
	Sei whale	Nova Scotia Stock (6,292).	5	1.6	5	Less than 1 percent.
	Minke whale	Canadian East Coastal Stock (21,968).	37	1.2	37	Less than 1 percent.
	Humpback whale	West Indies DPS (1,396)	45	2.0	46	3.3.
Cetacean (Odontocete)	Sperm whale	North Atlantic Stock (4,349).	2	1.5	5	Less than 1 percent.
	Atlantic white-sided dolphin.	Western North Atlantic Stock (93,233).	1,014	27.9	1,014	Less than 2 percent.
	Atlantic spotted dolphin	Western North Atlantic Stock (39,921).	4	29.0	29	Less than 1 percent.
	Common bottlenose dolphin.	Western North Atlantic Offshore Stock (62,851).	398	7.8	399	Less than 1 percent.
	Long-finned pilot whale	Western North Atlantic Stock (68,139).	86	8.4	86	Less than 1 percent.
	Risso's dolphin	Western North Atlantic Stock (35,215).	4	5.4	30	Less than 1 percent.
	Common dolphin (short-beaked).	Western North Atlantic Stock (172,974).	1,081	34.9	10,176	5.9.
	Harbor porpoise	Western North Atlantic Stock (95,543).	759	2.7	759	Less than 1 percent.
Pinniped (Phocid)	Gray seal	Western North Atlantic Stock (27,300).	399	0.4	400	Less than 2 percent.

TABLE 5—PROPOSED TAKES BY LEVEL B HARASSMENT AND PERCENTAGES OF EACH SPECIES OR STOCK ABUNDANCE—Continued

Taxonomic group	Common name	Stock (NEST) [a]	Density based exposures	Mean group size	Proposed take by level B harassment	Percent of stock
	Harbor seal	Western North Atlantic Stock (61,336).	897	1.0	897	Less than 2 percent

[a] Source—(Hayes *et al.* 2021).

Rare Species

Species considered to be rare or not expected to occur in the area were not included in the previous exposure estimates because the densities would be too low to provide meaningful density-based exposures. Nonetheless, species considered to be rare are occasionally encountered. For example, white-beaked dolphins were recorded in both 2019 and 2020 during HRG surveys in this area (Vineyard-Wind 2019, 2020) with the sighting of White-beaked dolphins in 2019 consisting of 30 animals. Other rare species encountered in the survey area during previous HRG surveys include false killer whale in 2019 (five individuals) and 2021 (one individual) (Vineyard-Wind 2019, 2021) and orca (killer whale) in 2022 (two individuals; data not yet submitted). When species not listed in an IHA are encountered and may be taken, it is necessary to cease survey operations to avoid unauthorized take. To avoid this potential disruption to survey operations, PCW is requesting and NMFS is proposing take by Level B harassment for these three rare species based on the largest number of individuals observed within one year: 30 white-beaked dolphins, 5 false killer whales, and 2 killer whales.

The take numbers shown in Table 5 are those requested by PCW. NMFS concurs with the requested take numbers and proposes to authorize them. Previous monitoring data compiled by PCW (available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-ocean-wind-marine-site-characterization-surveys-offshore-new*) suggests that the proposed take numbers for authorization are sufficient.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

Mitigation for Marine Mammals and Their Habitat

NMFS proposes the following mitigation measures be implemented during PCW's proposed marine site characterization surveys. Pursuant to section 7 of the ESA, PCW would also be required to adhere to relevant Project Design Criteria (PDC) of the NMFS' Greater Atlantic Regional Fisheries Office (GARFO) programmatic consultation (specifically PDCs 4, 5, and 7) regarding geophysical surveys along the U.S. Atlantic coast (*https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation*).

Marine Mammal Shutdown Zones and Level B Harassment Zone

Marine mammal shutdown zones (SZs) would be established around the HRG survey equipment and monitored by PSOs:

- 500-m SZ for North Atlantic right whales
- 100-m SZ for all other marine mammals

If a marine mammal is detected approaching or entering the SZs during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to minimize noise impacts on the animals. These stated requirements will be included in the site-specific training provided to the survey team.

Pre-Start Clearance

Marine mammal clearance zones (CZs) would be established around the HRG survey equipment and monitored by PSOs:

- 500-m CZ for all ESA-listed marine mammals; and
- 100-m CZ for all other marine mammals

Vineyard Northeast would implement a 30-minute pre-start clearance period prior to initiation of ramp-up of specified HRG equipment. During this period, CZs would be monitored by PSOs, using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective CZ. If a marine mammal is observed within its CZ during the pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective CZ or until an additional time has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure would be used for HRG survey equipment capable of adjustment of energy levels at the start or restart of survey activities. The ramp-up

procedure would be used at the beginning of HRG survey activities to provide additional protection to marine mammals in or near the Survey Area by allowing them to vacate the area prior to the commencement of survey equipment operation at full power. A ramp-up would begin with the powering up of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. When technically feasible, the power would then be gradually turned up and other acoustic sources would be added.

Ramp-up activities will be delayed if a marine mammal(s) enters its respective CZ. Ramp-up will continue if the animal has been observed exiting its respective CZ or until an additional period has elapsed with no additional sightings (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Activation of survey equipment through ramp-up procedures may not occur when visual observation of the pre-start clearance/shutdown zone is not expected to be effective using the appropriate visual technology (*i.e.,* during inclement conditions such as heavy rain or fog).

Shutdown Procedures

An immediate shutdown of the specified HRG survey equipment would be required if a marine mammal is sighted entering or within its respective SZ. The vessel operator must comply immediately with any call for shutdown by the PSO. Any disagreement between the PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective SZ or until an additional time has elapsed *(i.e.,* 15 minutes for harbor porpoise, 30 minutes for all other species).

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the applicable Level B harassment zone (Table 4), shutdown would occur.

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant observation and no detections of any marine mammal have occurred within the respective SZs. If the acoustic source is shut down for a period longer than 30 minutes, then pre-start clearance and ramp-up procedures will be initiated as described in the previous section.

The shutdown requirement would be waived for pinnipeds and for small delphinids of the following genera: *Delphinus, Lagenorhynchus, Stenella,* and *Tursiops.* Specifically, if a delphinid from the specified genera or a pinniped is visually detected approaching the vessel (*i.e.,* to bow ride) or towed equipment, shutdown is not required. Furthermore, if there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgement in making the decision to call for a shutdown. Additionally, shutdown is required if a delphinid or pinniped detected in the shutdown zone and belongs to a genus other than those specified.

Shutdown, pre-start clearance, and ramp-up procedures would not be required during HRG survey operations using only non-impulsive sources (*e.g.,* echosounders), other than non-parametric sub-bottom profilers (*e.g.,* CHIRP SBPs).

Vessel Strike Avoidance

Vineyard Northeast must ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammals sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel(s), or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a North Atlantic right whale, other whale (defined in this context as sperm whales or baleen whales other than North Atlantic right whales), or other marine mammal.
- Members of the monitoring team will consult NMFS North Atlantic right whale reporting system and Whale Alert at the start of every PSO shift, for situational awareness regarding the presence of North Atlantic right whales throughout the Survey Area, and for the establishment of Slow Zones (including visual-detection-triggered dynamic management areas (DMAs) and acoustically-triggered slow zones) within or near the Survey Area.
- All survey vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes, including SMAs and DMAs when in effect;
- All vessels greater than or equal to 19.8 m in overall length operating from November 1 through April 30 will operate at speeds of 10 knots or less at all times;
- All vessels must reduce their speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel;
- All vessels must maintain a minimum separation distance of 500 m from North Atlantic right whales and other ESA-listed species. If an ESA-listed species is sighted within the relevant separation distance, the vessel must steer a course away at 10 knots or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species that is not ESA-listed, the vessel operator must assume that it is an ESA-listed species and take appropriate action.
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 100 m from all non-ESA listed whales,
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).
- When marine mammals are sighted while a vessel is underway, the vessel must take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear

or any vessel that is navigationally constrained.

Seasonal Restrictions

Vineyard Northeast proposes to refrain from conducting survey activities using HRG equipment operating at or below 180 kHz from January 1 through May 15 within the North Atlantic right whale SMA in Cape Cod Bay.

Crew Training

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. Prior to implementation with vessel crews, the training program will be provided to NMFS for review and approval. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew member understands and will comply with the necessary requirements throughout the survey activities.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Proposed Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. PCW would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task. On a case-by-case basis, non-independent observers may be approved by NMFS for limited, specific duties in support of approved, independent PSOs on smaller vessels with limited crew capacity operating in nearshore waters. Section 5 of the draft IHA contains further details regarding PSO approval.

The PSOs will be responsible for monitoring the waters surrounding each survey vessel to the farthest extent permitted by sighting conditions, including shutdown zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established shutdown zones during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations and during periods of poor visibility. The PSO(s) would ensure 360° visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles, infared cameras and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 2 hours between watches and may conduct a maximum of 12 hours of observation per 24-hr period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to shutdown zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs would also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any observations of marine mammals by crew members aboard any vessel associated with the survey would be

relayed to the PSO team. Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.,* noted behavioral disturbances).

Proposed Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments on the draft report. All draft and final marine mammal and acoustic monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov, nmfs.gar.incidental-take@noaa.gov,* and *ITP.Potlock@noaa.gov.* The report must contain at minimum, the following:

- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-start clearance survey, ramp-up, shutdown, end of operations, etc.).

If a marine mammal is sighted, the following information should be recorded:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach and/or closest distance from the center point of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

If a NARW is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, PCW must immediately report sighting information to the NMFS NARW Sighting Advisory System: (866) 755–6622. NARW sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the event that PCW personnel discover an injured or dead marine mammal, PCW will report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, PCW would report the incident to the NMFS OPR and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assesses the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 5 given that NMFS expects the anticipated effects of the proposed survey to be similar in nature. Where there are meaningful differences between species or stocks—as is the case of the NARW—they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. As described above, Level A harassment is not expected to occur given the nature of the operations and the estimated size of the Level A harassment zones.

In addition to being temporary, the maximum expected harassment zone around a survey vessel is 178 m. Although this distance is assumed for all survey activity in estimating take numbers proposed for authorization and evaluated here, other survey activity would involve use of acoustic sources with a reduced acoustic harassment zone producing expected effects of particularly low(er) severity. Therefore, the ensonified area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the proposed survey area. However, there are BIAs for large whales, which overlap with the survey area. As discussed earlier in this document, there are two BIAs for feeding fin whales that flank the survey area, a BIA for feeding humpback whales northeast of the survey area, and a portion of the minke and sei whale feeding BIAs within the survey area. Migration and feeding BIAs for NARW are present in the survey area, but are discussed in the NARW subsection below.

Due to the fact that the proposed survey activities are temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available feeding habitat in the BIAs for large whales (as previously discussed), feeding for large whales is not expected to be impacted by the proposed survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by HRG survey operations.

NARWs

The status of the NARW population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated NARW mortalities began in June 2017 and there is an active UME. Overall, preliminary findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of NARWs. As noted previously, the proposed survey area overlaps migratory and feeding BIAs and critical habitat for NARW. Because the proposed survey activities are temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory and feeding habitats in the BIAs and critical habitat, NARW migration is not expected to be impacted by the proposed survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability for NARW would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of ship strike during migration; no ship strike is expected to occur during PCW's proposed activities. Additionally, only very limited take by Level B harassment of NARW has been requested and is being proposed for authorization by NMFS as HRG survey operations are required to maintain a 500 m EZ and shutdown if a NARW is sighted at or within the EZ. The 500 m shutdown zone for NARWs is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.,* boomer) is estimated to be 178 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small PTS zones associated with HRG equipment types proposed for use. NMFS does not anticipate NARWs takes that would result from PCW's proposed activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

Other Marine Mammal Species With Active UMEs

As noted previously, there are several active UMEs occurring in the vicinity of PCW's proposed survey area. Elevated humpback whale mortalities have

occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or DPS) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales.

The required mitigation measures are expected to reduce the number and/or severity of proposed takes for all species listed in Table 5, including those with active UMEs, to the level of least practicable adverse impact. In particular, they would provide animals the opportunity to move away from the sound source throughout the survey area before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes would be in the form of short-term Level B behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed for authorization;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or proposed for authorization;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the planned survey to avoid exposure to sounds from the activity;
- Take is anticipated to be primarily Level B behavioral harassment consisting of brief startling reactions and/or temporary avoidance of the survey area;
- While the survey area is within areas noted as migratory and feeding area BIAs and designated critical habitat for NARWs, the activities would occur in such a comparatively small area such that any avoidance of the survey area due to activities would not affect migration or feeding. In addition, mitigation measures to shut down at 500 m to minimize potential for Level B behavioral harassment would limit the severity of any take that occurs;
- While the survey area is within areas noted as feeding area BIAs for large whales, the activities would occur in such a comparatively small area such that any avoidance of the survey area due to activities would not affect prey availability or foraging activities.
- The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS proposes to authorize incidental take of 16 marine mammal species. The total amount of takes proposed for authorization relative to the best available population abundance is less than 9 percent for NARW, less than 6 percent for common dolphin, less than 4 percent for humpback whales, and less than 2 percent for all other species and stocks, which NMFS preliminarily finds are small numbers of marine mammals relative to the estimated overall population abundances for those stocks. Please see Table 5.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS Office of Protected Resources (OPR) consults internally whenever we propose to authorize take for endangered or threatened species, in this case with NMFS Greater Atlantic Regional Fisheries Office (GARFO).

NMFS is proposing to authorize the incidental take of five species of marine mammals which are listed under the ESA, including the North Atlantic right, fin, sei, and sperm whale, and has

determined that these activities fall within the scope of activities analyzed in GARFO's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021). The consultation concluded that NMFS' issuance of incidental take authorization related to these activities are not likely to adversely affect ESA-listed marine mammals.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to PCW for conducting marine site characterization surveys off the coast of Massachusetts south to Long Island, New York for one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine site characterization surveys. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: May 24, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–11485 Filed 5–26–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC066]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 144th Scientific and Statistical Committee (SSC), Pelagic and International Standing Committee, Fishery Data Collection and Research Committee (FDCRC), Executive and Budget Standing Committee, and 191st Council meetings to take actions on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between June 13 and June 23, 2022. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: All meetings will be held in a hybrid format with in-person and remote participation (Webex) options available for the Council and advisory body members, and public attendance limited to web conference via Webex. Specific information on joining the meeting, connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220. For all meetings, in-person attendance for Council and advisory body members will be hosted at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: All times shown are in Hawaii Standard Time. The Pelagic and International Standing Committee meeting will be held between 1 p.m. and 3 p.m. on June 13, 2022. The 144th SSC meeting will be held between 11 a.m. and 5 p.m. on June 14–15, 2022, and between 11 a.m. and 1 p.m. on June 16, 2022. The FDCRC meeting will be held between 2 p.m. and 4 p.m. on June 16, 2022. The Executive and Budget Standing Committee meeting will be held between 1 p.m. and 3 p.m. on June 20, 2022. The 191st Council meeting will be held between 9 a.m. and 5 p.m. on June 21–22, 2022, and between 8 a.m. and 12 p.m. on June 23, 2022.

Please note that the evolving public health situation regarding COVID–19 may affect the conduct of the June Council and its associated meetings. At the time this notice was submitted for publication, the Council anticipated convening the meetings as a hybrid format for members and by web conference for public attendance. If public participation options will be modified, the Council will post notice on its website at *www.wpcouncil.org* by, to the extent practicable, 5 calendar days before each meeting.

Agenda items noted as ''Final Action'' refer to actions that may result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the MSA. In addition to the agenda items listed here, the Council and its advisory bodies will hear recommendations from Council advisors. An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in

advance at the Council meeting. The meetings will run as late as necessary to complete scheduled business.

Background documents for the 191st Council meeting will be available at *www.wpcouncil.org.* Written public comments on final action items at the 191st Council meeting should be received at the Council office by 5 p.m. HST, June 17, 2022, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220 or fax: (808) 522–8226; or email: *info@wpcouncil.org.* Written public comments on all other agenda items may be submitted for the record by email throughout the duration of the meeting. Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded (audio only) for the purposes of generating the minutes of the meeting.

Agenda for the Pelagic and International Standing Committee

Monday, June 13, 2022, 1 p.m. to 3 p.m.

1. 2023 US Territorial Bigeye Tuna Catch/Effort Limit & Allocation Specifications (Action Item)
2. Update on Endangered Species Act (ESA) Consultations
3. International Fisheries
   A. Update on Western and Central Pacific Fisheries Commission (WCPFC) Matters
   B. U.S. Permanent Advisory Committee to the WCPFC
4. Advisory Group Report and Recommendations
5. Other Business
6. Public Comment
7. Discussion and Recommendations

Agenda for the 144th SSC Meeting

Tuesday, June 14, 2022, 11 a.m. to 5 p.m.

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 143rd SSC Meeting Recommendations
4. Pacific Islands Fisheries Science Center Director Report
5. Program Planning and Research
   A. National Standard 2 Related Issues
1. Review of WPSAR Terms of Reference for Uku EFH
2. Review of Regional BSIA Framework
3. Revisiting BSIA and WPSAR Framework
   B. CNMI Bottomfish Cluster Analysis
   C. National SSC Meeting Preparations
   D. Review of the Pacific Islands Regional Action Plan (PIRAP) to Implement the NOAA Fisheries Climate Science Strategy in 2022–24
   E. Council Coordination Committee (CCC) Equity and Environmental Justice (EEJ) Update
   F. National Standard-mandated Social Science Data Collection
   G. Development of Potential University of Hawaii Fisheries Program
   H. 2021 Annual Stock Assessment and Fishery Evaluation (SAFE) Report and Recommendations
1. Archipelagic & Pelagic Report Highlights
2. Archipelagic Report Recommendations
3. Pelagic Report Recommendations
   I. Public Comment
   J. SSC Discussion and Recommendations
6. Protected Species
   A. ESA Section 7 Consultations
1. Consultation updates for the Hawaii deep-set and American Samoa longline fisheries
2. Review of the draft bottomfish fishery biological opinion
   B. Impact of Observer Coverage Level on Estimated Take
   C. Public Comment

Wednesday, June 15, 2022, 11 a.m. to 5 p.m.

6. Protected Species (continued)
   D. ESA and Marine Mammal Protection Act Updates
1. National Updates (Serious Injury Determination Policy; Guidelines for Assessing Marine Mammal Stocks)
2. Regional Updates
   E. False Killer Whale Interaction and Depredation Analysis
   F. Public Comment
   G. SSC Discussion and Recommendations
7. Pelagic and International Fisheries
   A. CCC Subcommittee Report on Area-Based Management
   B. Deep-Sea Mining Updates
   C. Inter-American Tropical Tuna Commission (IATTC) Science Advisory Committee
   D. Pacific Community (SPC) Pre-Assessment Workshop
   E. Preparations for the WCPFC Science Committee
   F. Public Comment
   G. SSC Discussion and Recommendations

Thursday, June 16, 2022, 11 a.m. to 1 p.m.

8. Other Business
   A. September SSC Meetings Dates
9. Summary of SSC Recommendations to the Council

Agenda for the FDCRC

Thursday, June 16, 2022, 2 p.m. to 4 p.m.

1. Welcome Remarks and Introductions
2. Technical Committee Data Collection Subpanel Meeting Report and Recommendations
3. FDCRC Strategic Plan 2022–26 Update
4. Status of Draft Data Sharing Agreements
5. Marine Recreational Information Program Regional Implementation Plan Update
6. Territorial Relationships with the SPC
7. Public Comment
8. Other Business
9. Discussions and Recommendations

Agenda for the Executive and Budget Standing Committee

Monday, June 20, 2022, 1 p.m. to 3 p.m.

1. Financial Matters
   A. FY2023 President's Budget
2. Administrative Report
3. Council Coordination Committee
4. Regional Operating Agreement Update
5. Council Family Changes
6. Meetings and Workshops
7. Other Issues
8. Public Comment
9. Discussion and Recommendations

Agenda for the 191st Council Meeting

Tuesday, June 21, 2022, 9 a.m. to 5 p.m.

1. Welcome and Introductions
2. Approval of the 191st CM Agenda
3. Approval of the 190th CM Meeting Minutes
4. Executive Director's Report
5. Agency Reports
   A. National Marine Fisheries Service
1. Pacific Islands Regional Office
2. Pacific Islands Fisheries Science Center
   B. NOAA Office of General Counsel Pacific Islands Section
   C. Enforcement
1. U.S. Coast Guard
2. NOAA Office of Law Enforcement
3. NOAA Office of General Counsel Enforcement Section
   D. U.S. State Department
   E. U.S. Fish and Wildlife Service
   F. Public Comment
   G. Council Discussion and Action
   6. Mariana Archipelago
   A. Guam
1. Department of Agriculture Report
2. Isla Informe
   B. CNMI
1. Arongol Falú
2. Department of Lands and Natural Resources Report
3. CNMI Bottomfish Cluster Analysis
   C. Advisory Group Report and

Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Scientific & Statistical Committee
D. Public Comment
E. Council Discussion and Action
7. American Samoa Archipelago
A. Motu Lipoti
B. Department of Marine & Wildlife Resources Report
C. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Scientific & Statistical Committee
D. Public Comment
E. Council Discussion and Action
8. Protected Species
A. False Killer Whale Interaction and Depredation Analysis
B. ESA Consultations for the Hawaii Deep-set Longline Fishery, American Samoa Longline Fishery, and Bottomfish Fisheries
1. Consultation updates
2. Review of the draft bottomfish biological opinion
C. ESA and Marine Mammal Protection Act Updates
1. National Updates (Serious Injury Determination Policy; Guidelines for Assessing Marine Mammal Stocks)
2. Regional Updates
D. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Scientific & Statistical Committee
E. Public Comment
F. Council Discussion and Action

Tuesday, June 21, 2022, 4:30 p.m. to 5 p.m.

Public Comment on Non-Agenda Items

Wednesday, June 22, 2022, 9 a.m. to 5 p.m.

9. Pelagic & International Fisheries
A. 2023 U.S. Territorial Bigeye Tuna Catch/Effort Limit & Allocation Specifications (Final Action)
B. CCC Subcommittee Report on Area-Based Management
C. International Fisheries
1. WCPFC U.S. Permanent Advisory Committee
2. International Seabed Authority Updates
3. 7th Our Ocean Conference
4. IATTC Science Advisory Committee
5. Pacific Islands Climate Change Planning and Stakeholder Engagement
D. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Pelagic Plan Team
4. Scientific & Statistical Committee
E. Pelagic and International Standing Committee
F. Public Comment
G. Council Discussion and Action
10. Program Planning and Research
A. National Legislative Report
B. National Standard 2 Related Issues
1. Review of WPSAR Terms of Reference for Uku EFH
2. Review of Regional BSIA Framework
3. Revisiting BSIA and WPSAR Framework
C. Review of the PIRAP to Implement the NOAA Fisheries Climate Science Strategy in 2022–24
D. 2021 Annual SAFE Report and Recommendations
1. Archipelagic Report Overview and Highlights
2. Pelagic Report Overview and Highlights
E. Report on National Saltwater Recreational Fishing Summit
F. EEJ
1. Update on CCC Working Group on EEJ
2. Report on Council EEJ and Fisheries Management Workshop
3. Report on NMFS Draft EEJ Strategy
G. Regional Communications & Outreach Report
H. Advisory Group Report and Recommendations
1. Social Science Planning Committee
2. Federal Data Coordination and Research Committee
3. Advisory Panel
4. Fishing Industry Advisory Committee
5. Archipelagic Plan Team
6. Pelagic Plan Team
7. Scientific & Statistical Committee
I. Public Comment
J. Council Discussion and Action

Thursday, June 23, 2022, 8 a.m. to 12 p.m.

11. Hawai'i Archipelago & Pacific Remote Island Areas
A. Moku Pepa
B. DLNR/DAR Report (Legislation, Enforcement)
C. Green Turtle Management Update
D. Proposed NWHI Fishing Regulations (Initial Action)
E. Advisory Group Report and Recommendations
1. Advisory Panel
2. Fishing Industry Advisory Committee
3. Scientific & Statistical Committee
F. Public Comment
G. Council Discussion and Action
12. Administrative Matters
A. Financial Reports
B. Administrative Reports
C. Council Coordination Committee Meeting Report
D. Council Family Changes
E. Meetings and Workshops
F. Standing Committee Report
G. Public Comment
H. Council Discussion and Action

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 191st meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the MSA, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: May 24, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–11424 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC068]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Wednesday, June 15, 2022, at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at the Courtyard by Marriott Boston Logan Airport, 225 McLellan Highway, Boston, MA 02128; telephone: (617) 569–5250.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review 2023/24 Scallop Research Set-Aside (RSA) and develop research recommendations for the notice of funding announcement. They also plan to discuss scallop specifications with an update on the timeline and possible measures. This action will be initiated at the June 2022 Council meeting. Also on the agenda is an update on 2022 work priorities and other scallop related issues, including the Nantucket Lightship South. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 24, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–11426 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XCO69]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, June 14, 2022 at 9:30 a.m.

ADDRESSES: This meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Groundfish Committee will discuss development of draft specifications and measures: Status determination criteria, rebuilding plans for Gulf of Maine (GOM) cod and Southern New England/Mid-Atlantic (SNE/MA) winter flounder, FY2023–FY2024 US/CA total allowable catches, FY2023–FY2024 specifications: Georges Bank (GB) yellowtail flounder and GB cod (including a catch target for the recreational fishery), FY2023–FY2025 specifications for 14 stocks, additional measures to promote stock rebuilding for GOM cod and SNE/MA winter flounder, and revised acceptable biological catch control rules, in consultation with the Scientific and Statistical Committee. They will discuss Amendment 23 progress on development of metrics. The Committee will discuss a Council priority to develop a transition plan for Atlantic cod management from the current two management unit to up to five management units (multi-year priority). As a part of the transition plan, there will be a white paper on potential approaches to allocate ''Georges Bank cod'' to the recreational fishery delivered in 2022 to inform the 2023 priorities discussion. They will also review the current list of Council research priorities and suggest changes or additions to the list as well recommendations from the Recreational Advisory Panel, Groundfish Advisory Panel, and Groundfish Plan Development Team. Other business will be discussed if necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 24, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–11427 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC067]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, June 14, 2022, at 9 a.m.

ADDRESSES: This meeting will be held at the Courtyard by Marriott Boston Logan Airport, 225 McLellan Highway, Boston, MA 02128; telephone: (617) 569–5250.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director,

New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review 2023/24 Scallop Research Set-Aside (RSA) and develop research recommendations for the notice of funding announcement. They also plan to discuss scallop specifications with an update on the timeline and possible measures. This action will be initiated at the June 2022 Council meeting. Also on the agenda is an update on 2022 work priorities and other scallop related issues, including the Nantucket Lightship South. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 24, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–11425 Filed 5–26–22; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the procurement list.

SUMMARY: The Committee is proposing to add product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* June 26, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
- MR 16950—Assorted Safety Pins, 50 Piece
- MR 16951—Thread Spool, Black and White, 2 Piece
- MR 16952—Thread Spool, Black
- MR 16953—Thread Spool, White
- MR 16954—Fabric Glue, ¾ Ounce
- MR 16955—Heavy Fabric Needles, 7 Piece
- MR 16956—Iron-On Patches, 8 Piece
- MR 16957—FixIt Tape Strips, 40 Piece
- MR 16958—Fabric Scissors, 8.5″
- MR 16959—Seam Ripper & Tape Measure
- MR 16960—Sew Quick Threaded Needles, 13-Piece
- MR 16961—Survival Sewing Kit, 64-Piece
- MR 16962—Hook and Loop (HNL) Tape, 18″, Black
- MR 16963—Hook and Loop (HNL) Tape, 18″, White

Designated Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY

Mandatory For: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4

Contracting Activity: Military Resale-Defense Commissary Agency

Distribution: C-List

Michael R. Jurkowski,

Acting Director, PL Operations.

[FR Doc. 2022–11403 Filed 5–26–22; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, June 1, 2022, 10:00–11:00 a.m.

PLACE: This meeting will be held remotely.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: Decisional Matter: FY 2022 Midyear Review.

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e7f67727fc4fe1732edb1ec8436c5d9fe.*

After registering you will receive a confirmation email containing information about joining the meeting.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: May 25, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–11574 Filed 5–25–22; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0060]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Department of Defense (DoD) .

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying and reissuing a current system of records titled, ''Defense Manpower Data Base,'' DMDC 01. This system of records was originally established by the Defense Manpower Data Center (DMDC) to collect and maintain records for the purpose of providing a single central facility within the DoD to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and Armed Forces personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and Armed Forces personnel and their authorized

dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified. It is also used to collect debts owed to the United States Government and state and local governments. The DMDC manages a series of files within this system of records for the purposes of serving as the central DoD repository for various personnel and manpower assessments. This system of records notice (SORN) is being updated to make various changes, including expanding the individuals covered, updating a routine use relating to computer matching programs, and adding DoD's standard routine uses.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before June 27, 2022. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Peterson, DMDC Privacy Officer, DMDC Privacy Office, DoD Center, 400 Gigling Road, Monterey, CA 93955; *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil;* (831) 583–2400.

SUPPLEMENTARY INFORMATION:

I. Background

The Defense Manpower Data Base system of records is used to collect and maintain records for the purpose of providing a single central facility within the DoD to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and Armed Forces personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and Armed Forces personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits for which they are qualified. Subject to public comment, the DoD is updating this SORN to add the standard DoD routine uses (routine uses A through J) and to allow for a change to an existing disclosure outside DoD related to the purpose of this system of records. Additionally, the following sections of this SORN are being modified as follows: (1) To the Authority for Maintenance of the System section to add additional authorities; (2) to the Categories of Individuals Covered by the System, to expand the individuals covered with the addition of Space Force and deployed contract personnel, and to the Categories of Records to clarify how the records relate to the revised Categories of Individuals; (3) to the Administrative, Technical, and Physical Safeguards to update the individual safeguards protecting the personal information; (4) to the Record Access Procedures section to reflect the need for individuals to identify the appropriate DoD office or component to which their request should be directed; (5) to the Contesting Records Procedures section to update the appropriate citation for contesting records; and (6) to the System Manager and System Location sections to update the addresses and office names. Furthermore, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Freedom of Information Directorate website at *https://dpcld.defense.gov.*

II. Privacy Act

Under the Privacy Act, a ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, the DoD has provided a report of this system of records to the OMB and to Congress.

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Defense Manpower Data Center Data Base, DMDC 01.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301–1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301–6000.

SYSTEM MANAGER(S):

The system manager is Program Manager, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771; Email: *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. (Pub. L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1562, Database on Domestic Violence Incidents; 20 U.S.C. 1001 *et seq.,* Higher Education Opportunity Act; Public Law 106–265, Federal Long-Term Care Insurance; 10 U.S.C. 2358, Research and Development Projects; DoD Instruction 6490.03, Deployment Health; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system of records is to provide a single central facility within the Department of Defense (DoD) to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, to identify current and former DoD civilian and Armed Forces personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and Armed Forces personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits for which they are qualified. In addition, the system of records may be used as follows:

A. To collect debts owed to the United States Government and state and local governments.

B. In the preparation of studies and policy as related to the health and well-

being of current and past Armed Forces and DoD-affiliated civilian and contractor personnel;

C. To respond to Congressional and Executive branch inquiries;

D. To provide data or documentation relevant to the testing or exposure of individuals to chemical, biological, or other substances affecting health;

E. To conduct longitudinal, statistical, and analytical studies and compute demographic reports, with respect to Armed Forces drug testing records. No personal identifiers will be included in the demographic data reports. All requests for Service specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

F. DMDC web usage data will be used to validate continued need for user access to DMDC computer systems and databases, to address problems associated with web access, and to ensure access is only for official purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. All Army, Navy, Air Force, Marine Corps, Space Force and Coast Guard officer and enlisted (hereafter the ''Armed Forces'') personnel serving on active duty from July 1, 1968 and after or were a member of a reserve component since July 1975;

B. Retired Armed Forces personnel;

C. Active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the Public Health Service (PHS) (with Armed Forces above, hereafter referred to as the ''Uniformed Services'');

D. Deployed contract personnel;

E. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later;

F. Current and former DoD civilian employees since January 1, 1972;

G. Veterans using the Veterans Education Assistance Program (VEAP) from January 1977 through June 1985;

H. Participants in the Department of Health and Human Services National Longitudinal Survey;

I. Survivors of retired Armed Forces personnel eligible for or currently receiving disability payments or disability income compensation from the Department of Veterans Affairs;

J. Surviving spouses of active or retired deceased Armed Forces personnel;

K. 100% disabled veterans and their survivors;

L. Survivors of retired officers of NOAA and PHS eligible for, or currently receiving, Federal payments due to the death of the retiree;

M. Individuals receiving disability compensation from the Department of Veterans Affairs or who are covered by a Department of Veterans Affairs' insurance or benefit program;

N. Dependents of active and retired members of the Uniformed Services;

O. Selective service registrants;

P. All Federal civilian retirees with a DoD affiliation;

Q. DoD non-appropriated fund personnel;

R. Individuals who were or may have been the subject of tests involving chemical or biological human subject testing; and individuals inquiring or providing information to the DoD concerning such testing;

S. Individuals with authorized web access to DMDC computer systems and databases.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Computerized personnel/employment/pay records: Name, Service Number, Selective Service Number, Social Security Number (SSN), DoD Identification Number, citizenship data, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; performance ratings of DoD civilian employees and military members; reasons given for leaving military service or DoD civilian service; civilian and military acquisition work force warrant location; training and job specialty information; military personnel information such as rank, assignment/deployment, casualty information, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs; date of award of certification of military experience and training; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses;

B. Identities of individuals involved in incidents of child and domestic abuse and information about the nature of the abuse and services provided;

C. CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and SSN or tax identification number of providers or potential providers of care;

D. Selective Service System registration data;

E. Primary and secondary fingerprints of Military Entrance Processing Command (MEPCOM) applicants;

F. Department of Veterans Affairs disability payment records.

G. Credit or financial data as required for security background investigations;

H. Criminal history information on individuals who subsequently enter the military;

I. Extracts from Office of Personnel Management (OPM); OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address.;

J. Non-appropriated fund employment/personnel records consist of SSN, name, and work address;

K. Military drug test records containing the SSN, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory;

L. Names of individuals, as well as DMDC assigned identification numbers, and other user-identifying data, such as organization, SSN, email address, phone number, of those having web access to DMDC computer systems and databases, to include dates and times of access.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: The Uniformed Services, the Department of Veterans Affairs, the OPM, Environmental Protection Agency, the Department of Health and Human Services, the Department of Energy, the Executive Office of the President, and the Selective Service System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or

other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (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 the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD 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.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To Federal and State agencies, as well as their contractors and grantees, for purposes of providing military wage, training, and educational information so that Federal-reporting requirements, as mandated by statute, such as the Workforce Investment Act (29 U.S.C. 2801, *et seq.*) and the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2301, *et seq.*) can be satisfied.

L. To the Department of Veterans Affairs (DVA):

(1) To provide Uniformed Service personnel and pay data for present and former Uniformed Service personnel for the purpose of evaluating use of veterans' benefits, validating benefit eligibility and maintaining the health and well-being of veterans and their family members;

(2) To provide identifying Armed Service personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968);

(3) To register eligible veterans and their dependents for DVA programs.

(4) Providing identification of former Uniformed Service personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments;

(5) To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of: (a) Providing identification of active duty Uniformed Services personnel, including full time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation for recipients who return to active duty so benefits can be adjusted or terminated and DVA can collect overpayments as appropriate (38 U.S.C. 5304(c)); (b) Providing identification of Uniformed Services personnel receiving reserve duty pay, including full time National Guard/Reserve Armed Forces support personnel, for the purpose of deducting payments for reserve time served from DVA disability compensation paid. The law (10 U.S.C. 12316) prohibits receipt of both reserve pay and DVA compensation for the same time period, but permits waiver of DVA compensation to draw reserve pay;

(6) To provide identifying Uniformed Service personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

M. To the OPM:

(1) Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

(2) Matching for administrative purposes to include updated employer addresses of Federal civil service employees who are reservists and demographic data on civil service employees who are reservists.

N. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of Armed Forces personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to life stream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

O. To the Department of Health and Human Services (DHHS):

(1) Office of the Inspector General, DHHS for the purpose of identification and investigation of DoD civilian employees and Armed Forces members who may be improperly receiving funds under the Temporary Assistance for Needy Families (TANF);

(2) Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n));

(3) Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no DoD physicians, interns, or residents are counted for HCFA reimbursement to hospitals;

(4) Centers for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well-being of Uniformed Services personnel or veterans, to include family members;

(5) To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the Public Assistance Reporting Information System (PARIS) for the purpose of determining continued eligibility and help eliminate fraud and abuse in benefit programs by identifying individuals who are receiving Federal compensation or pension payments and also are receiving payments pursuant to Federal benefit programs being administered by the States.

P. To State public assistance agencies administering Federal benefit programs, including those States agencies participating in PARIS or a successor system facilitated by the DHHS or its components, to conduct matching programs for the purpose of determining or verifying eligibility to receive public assistance benefits and, if ineligible, to take such action as may be authorized by law and regulation.

Q. To the Social Security Administration (SSA) components, including the:

(1) Office of Research and Statistics for the purpose of: (a) Conducting statistical analyses of impact of military service and use of GI Bill benefits on long-term earnings; or (b) Obtaining current earnings data on individuals voluntarily leaving military service or DoD civil employment so analytical personnel studies regarding pay, retention and benefits may be conducted.

Note 3: Earnings data obtained from the SSA and used by DoD does not contain any information identifying the individual about whom the earnings data pertains;

(2) Bureau of Supplemental Security Income, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of verifying information provided to the SSA by applicants and recipients/beneficiaries, who are retired members of the Uniformed Services or their survivors, for Supplemental Security Income (SSI) or Special Veterans' Benefits (SVB). By law (42 U.S.C. 1006 and 1383), the SSA is required to verify eligibility factors and other relevant information provided by the SSI or SVB applicant from independent or collateral sources and obtain additional information as necessary before making SSI or SVB determinations of eligibility, payment, entitlement, or benefit amounts, or adjustments thereto;

(3) Client Identification Branch for the purpose of validating the assigned SSN for individuals in DoD personnel and pay files, using the SSA Enumeration Verification System (EVS); and

(4) The Office of Disability and Insurance Security Programs, for the purpose of expediting disability processing of wounded military service members and veterans.

R. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

S. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and members of the Uniformed Services by the states. To the DOL to survey Armed Forces separations to determine the effectiveness of programs assisting veterans to obtain employment.

T. To Federal and Quasi Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior Armed Forces service credit for their employees or for job applicants. Information released includes name, SSN, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

U. To state and local law enforcement investigative agencies to obtain military history information for the purpose of ongoing investigations.

V. To Federal and Quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well-being of Uniformed Service and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC; (1) Determines the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (2) Determines the research purpose cannot be reasonably accomplished unless the record is provided in individually identifiable form, and warrants the risk to the privacy of the individual that additional exposure of the record might bring; (3) requires the recipient to establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and makes no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information enabling research subjects to be identified is removed or destroyed at the earliest opportunity consistent

with the purpose of the audit, or (D) when required by law; (4) secures a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

W. To Federal and State agencies for purposes of obtaining socioeconomic information on Armed Forces personnel so analytical studies can be conducted with a view to assessing the present needs and future requirements of such personnel.

X. To Federal and state agencies for purposes of validating demographic data (*e.g.,* Social Security Number, citizenship status, date and place of birth, etc.) for individuals in Uniformed Service personnel and pay files so accurate information is available in support of Uniformed Service requirements.

Y. To the Bureau of Citizenship and Immigration Services, Department of Homeland Security, for purposes of facilitating the verification of individuals possibly eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

Z. To the Department of Education, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of: (1) Identifying dependent children of those Armed Forces members who died as a result of performing military service in Iraq or Afghanistan after September 11, 2001, and therefore, may be eligible for increased amounts of Federal student assistance under the Higher Education Act of 1965, as amended (HEA), including sections 473(b) and 420R of the HEA; possible benefits; or (2) identifying service members deployed to areas that qualify them for imminent danger pay (IDP) or hostile fire pay (HFP) for benefit eligibility determinations and related notifications concerning no-interest accrual benefits on qualifying student loans made under Title IV of the HEA. for the period of time they received IDP or HFP pay; and (3) eligibility determinations for service members to receive any educational benefits consistent with the Higher Education Act of 1965, as amended, including, but not limited to, military loan deferment (20 U.S.C. 1087a *et seq.*), and forgiveness under the Public Service Loan Forgiveness Program (20 U.S.C. 1087e *et seq.*).

AA. To other Federal Agencies or non-Federal agencies for the purpose of conducting computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a for the purpose of establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or recouping payments or delinquent debts under such Federal benefit programs.

Note 4: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically. The records may be stored on magnetic disc, tape, or digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, SSN, DoD ID number, occupation, or any other data element contained in system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained as follows: (1) Input/source records are deleted or destroyed after data have been entered into the master file or when no longer needed for operational purposes, whichever is later. Exception: Apply NARA-approved disposition instructions to the data files residing in other DMDC data bases; (2) The Master File is retained permanently. At the end of the fiscal year, a snapshot is taken and transferred to the National Archives in accordance with 36 CFR part 1228.270 and 36 CFR part 1234; (3) Output records (electronic or paper summary reports) are deleted or destroyed when no longer needed for operational purposes. Note: This disposition instruction applies only to record keeping copies of the reports retained by DMDC. The DoD office requiring creation of the report should maintain its record keeping copy in accordance with NARA approved disposition instructions for such reports; (4) System documentation (codebooks, record layouts, and other system documentation) are retained permanently and transferred to the National Archives along with the master file in accordance with 36 CFR part 1228.270 and 36 CFR part 1234.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, the DoD established security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents. The DoD routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; Secret internet Protocol Router ((SIPR) token as required); physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

With respect to Armed Forces drug testing records: No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service-designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155;

Requester Service Center website: *https://www.esd.whs.mil/FOID.* Signed written requests should contain the name and number of this system of records notice along with full name, SSN, date of birth, current address, and telephone number of the individual and be signed. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

Attorneys or other persons acting on behalf of an individual must provide written authorization from the individual for their representative to act on their behalf.

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents and appealing initial Component determinations are contained in 32 CFR part 310; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

November 23, 2011, 76 FR 72391; February 27, 2019, 84 FR 6383; March 11, 2019, 84 FR 8698.

[FR Doc. 2022–11484 Filed 5–26–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Client Assistance Program

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 27, 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 April Trice, 202–245–6074.

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: Application for Client Assistance Program.

OMB Control Number: 1820–0520.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: The purpose of Client Assistance Program (CAP) is to advise and inform applicants and individuals eligible for services and benefits available under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), and title I of the Americans with Disabilities Act of 1990 (ADA), including students with disabilities under section 113 and individuals with disabilities employed at subminimum wage under section 511 of the Rehabilitation Act. In addition, applicants and eligible individuals may be provided advocacy and representation to ensure their rights in their relationship with projects, programs, and services to protect their rights provided under the Rehabilitation Act. In addition to providing assistance and advocacy under the Rehabilitation Act, a CAP agency may provide information on the assistance and benefits on title I of the ADA, especially those who have traditionally been unserved or underserved by the vocational rehabilitation program, with respect to services that are directly related to facilitating the employment for applicants or eligible individuals.

Dated: May 24, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–11481 Filed 5–26–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE), Bonneville Power Administration (BPA), invites public comment on a collection of information that BPA is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The proposed collection, Customer Request Services, will be used to allow customers to make requests, specifically for power interruption or to upgrade wireless sites

collocated on BPA facilities. This information collection is used to manage these types of requests.

DATES: Comments regarding this proposed information collection must be received on or before July 26, 2022. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60 day Review—Open for Public Comments'' or by using the search function. Written comments may be sent to Bonneville Power Administration, Attn: Stephanie Noell, Privacy Program, CGI–7, P.O. Box 3621, Portland, OR 97208–3621, or by email at *privacy@bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Attn: Stephanie Noell, Privacy Program, by email at *privacy@bpa.gov,* or by phone at (503) 230–3881.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* New;

(2) *Information Collection Request Titled:* Customer Request Services;

(3) *Type of Review:* New;

(4) *Purpose:* This information collection will be used to allow customers to make requests, specifically for power interruption or to upgrade wireless sites collocated on BPA facilities: BPA F 6500.15e—Transmission Operator Provider (TOP) Outage Request—Customers/USBR/COE, BPA F 6530.16e—Application for a Wireless Site Upgrade Co-Located on BPA Facilities;

(5) *Annual Estimated Number of Respondents:* 131;

(6) *Annual Estimated Number of Total Responses:* 6,325;

(7) *Annual Estimated Number of Burden Hours:* 738;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $29,169.

Statutory Authority: The Bonneville Project Act of 1937, 16 U.S.C. ch. 12B; 16 U.S.C. 832a(b); and the Federal Columbia River Transmission System Act of 1974, 16 U.S.C. ch. 12G; 16 U.S.C. 838b.

Signing Authority

This document of the Department of Energy was signed on May 16, 2022, by Candice D. Palen, Information Collection Clearance Manager, Bonneville Power Administration, 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 May 24, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–11413 Filed 5–26–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2503–185]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2503–185.

c. *Date Filed:* May 11, 2022.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* Lake Keowee in Oconee County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kelvin Reagan, Duke Energy Lake Services, 526 S. Church Street/EC12Q, Charlotte, NC 28202, (704) 382–9386, *kelvin.reagan@duke-energy.com.*

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* June 22, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2503–185. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* Duke Energy Carolinas, LLC proposes to issue a lease to Kensington Estates at Keowee for the construction and operation of a residential marina within the project boundary. The marina would occupy 0.56 acre of project lands and waters and would include 2 floating boat docks to accommodate 19 watercraft. The shoreline adjacent to the proposed marina is classified in the Shoreline Management Plan as Future Residential Marina. No additional construction, dredging, or shoreline stabilization is proposed.

l. *Locations of the Application:* 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 document 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) 208–3673 or TYY, (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11444 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1927–000]

Sunnybrook Farm Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sunnybrook Farm Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 13, 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: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11451 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1928–000]

Salt City Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Salt City Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 13, 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: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11450 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1929–000]

ENGIE Solidago Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of ENGIE Solidago Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 13, 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: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11446 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–470–000]

Freeport LNG Development, L.P. & FLNG Liquefaction 4, LLC; Notice of Request for Extension of Time

Take notice that on May 16, 2022, Freeport LNG Development, L.P. (Freeport LNG) and FLNG Liquefaction 4, LLC (FLIQ4), (together FLNG), requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until August 1, 2028, to site, construct and operate a fourth natural gas liquefaction train and pretreatment unit, as well as interconnecting pipelines and utility lines (Train 4 Project or Project) to support additional liquefaction and export operations at Freeport LNG's existing Quintana Island termina,) and make the Project available for service, as authorized in the May 19, 2019 Order Issuing Certificate (Train 4 Order).[1]

On September 10, 2020, the Commission granted FLNG an extension of time until May 17, 2026, to complete construction of the Train 4 Project and make it available for service. Freeport LNG has completed construction of, and placed in-service, liquefaction Trains 1–3 and associated facilities at the Quintana Island terminal and at the pretreatment facility site. However, construction of the Train 4 Project has not yet commenced, due in large part to delays stemming from the COVID–19 pandemic. At the time the original extension of time was granted, it was not expected that the pandemic would persist for as long as it has, or that the resulting effects on global markets, including global LNG markets, the global supply-chain and the financing of large-scale infrastructure, would be so significant. In this regard, the COVID–19 pandemic made it extremely difficult to secure long-term LNG commercial commitments given the far-reaching economic effects of the pandemic, and the uncertainty of future demand.

While FLNG originally projected a 42-month construction schedule for the Train 4 Project, experience gained through the construction of liquefaction Trains 1–3 and the EPC contract bid process for Train 4 suggests that the construction schedule for the Train 4 Project may be closer to 48 to 56 months. Furthermore, potentially longer construction schedules are possible as a

[1] *Freeport LNG Development, L.P. & FLNG Liquefaction 4, LLC,* 167 FERC ¶ 61,155 (2019) (Train 4 Order).

result of supply-chain disruptions due to COVID, the Ukraine invasion, and other global supply/demand imbalances. However, given the anticipated minimum 48–56 month period required to construct the Train 4 Project, it is not possible for FLNG to meet the current May 17, 2026 in-service date deadline. The inability to meet this schedule is impeding FLNG's efforts to finalize commercialization of the Train 4 Project and structure the complex financing associated with reaching a final investment decision, notwithstanding the significant upward trend in natural gas markets and U.S. LNG demand. Certainty regarding FLNG's ability to complete Project construction by the in-service deadline is essential to completing commercialization of the Project, which is why FLNG is filing for an extension now while time still remains on its current authorization. The upfront, long-term commercial commitments required to be made by LNG off-takers, and the unique nature of financing LNG projects, necessitates such certainty.

FLNG requests that the Commission grant an approximately 26-month extension of time so that FLNG may construct and place the Train 4 Project in service by no later than August 1, 2028. This timing, and the commencement of service under FLIQ4's anticipated 20-year off-take agreements in this time frame, is consistent with FLIQ4 and its affiliate's current export authorization from the Department of Energy for exports to non-free trade agreement nations, which extends through December 31, 2050.[2]

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on FLNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[3] the Commission will aim to issue an order acting on the request within 45 days.[4] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[5] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[6] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[7] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. 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.

Comment Date: 5:00 p.m. Eastern Time on June 7, 2022.

Dated: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11440 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

[2] *Freeport LNG Expansion, L.P. & FLNG Liquefaction 4, LLC,* Order Extending Export Term for Authorization to Non-Free Trade Agreement Nations Through December 31, 2050, DOE/FE Order No. 4374–A, FE Docket No. 18–26–LNG (Oct. 21, 2020).

[3] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[4] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[5] *Id.* at P 40.

[6] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[7] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

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: PR22–40–000.
Applicants: Hope Gas, Inc.
Description: § 284.123(g) Rate Filing: HGI—2021 PREP Filing to be effective 6/1/2022.
Filed Date: 5/20/22.
Accession Number: 20220520–5148.
Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: RP22–928–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Volume No. 2—GDF Suez Mexico Comercializadora, S. de R.L. de C.V SP361338 to be effective 11/1/2021.
Filed Date: 5/20/22.
Accession Number: 20220520–5154.
Comment Date: 5 p.m. ET 6/1/22.

Docket Numbers: RP22–929–000.
Applicants: Roaring Fork Interstate Gas Transmission, LLC.
Description: Compliance filing: Order No. 587–Z Compliance Filing to be effective 6/1/2022.
Filed Date: 5/20/22.
Accession Number: 20220520–5157.
Comment Date: 5 p.m. ET 5/25/22.

Docket Numbers: RP22–930–000.
Applicants: BBT AlaTenn, LLC.
Description: § 4(d) Rate Filing: BBT Ala-Tenn Refiling of RP20–508 tariff records to be effective 3/11/2020.
Filed Date: 5/20/22.
Accession Number: 20220520–5163.
Comment Date: 5 p.m. ET 6/1/22.

Docket Numbers: RP22–931–000.
Applicants: White River Hub, LLC.
Description: Annual Fuel Gas Reimbursement Report of White River Hub, LLC.
Filed Date: 5/20/22.
Accession Number: 20220520–5259.
Comment Date: 5 p.m. ET 6/1/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11441 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–44–000]

Equitrans, L.P.; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Ohio Valley Connector Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Ohio Valley Connector Expansion Project (Project) involving construction and operation of facilities proposed by Equitrans L.P. (Equitrans) in Greene County, Pennsylvania; Wetzel County, West Virginia; and Monroe County, Ohio. The Commission will use this environmental document in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the Project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on June 22, 2022. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this Project to the Commission before the opening of this docket on January 28, 2022, you will need to file those comments in Docket No. CP22–44–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Equitrans provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number (CP22–44–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal

Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Project Purpose and Need and Summary of Proposed Project

According to Equitrans, this Project would expand Equitrans' existing Ohio Valley Connector assets to deliver approximately 350,000 dekatherms per day of incremental firm natural gas to the expanding mid-continent and Gulf Coast markets along the Rockies Express and Rover pipeline systems.

Equitrans proposes to acquire and operate the existing non-jurisdictional Cygrymus Compressor Station—located in Greene County, Pennsylvania—and install two new turbines. In addition, Equitrans would install one additional compressor unit each at the existing Corona Compressor Station in Wetzel County, West Virginia and at the existing Plasma Compressor Station in Monroe County, Ohio. Equitrans would also construct approximately 5.5 miles of pipeline and ancillary facilities in different locations related to the compressor stations.

Specifically, the Ohio Valley Connector Expansion Project would consist of the following facilities:

Greene County, Pennsylvania

- addition of two Taurus 70 turbines at the existing Cygrymus Compressor Station;
- approximately 0.5 mile of 16-inch-diameter natural gas pipeline (H–327);
- approximately 0.5 mile of 12-inch-diameter natural gas pipeline (H–328);
- a deep anode groundbed and rectifier; and
- ancillary facilities, such as a valve yard, taps, and internal inspection device (*e.g.,* pig [1]) launchers and receivers.

Wetzel County, West Virginia

- addition of one Mars 100 compressor at the existing Corona Compressor Station;
- approximately 3.7 miles of new 24-inch-diameter natural gas pipeline (H–326);
- approximately 129 feet of new 8-inch-diameter natural gas pipeline (H–329);
- approximately 0.7 mile of new 16-inch-diameter natural gas pipeline (H–330);
- approximately 0.09 mile of new 16-inch-diameter natural gas pipeline (H–330 Spur);
- approximately 160 feet of new 12-inch-diameter natural gas pipeline; and
- ancillary facilities, such as mainline valves, valve yards, measuring equipment, and internal inspection device (*e.g.,* pig launchers and receivers).

Monroe County, Ohio

- addition of one Titan 130 compressor at the existing Plasma Compressor Station.

The general location of the Project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Based on the environmental information provided by Equitrans, construction of the proposed facilities would disturb about 117 acres of land for the aboveground facilities and the pipelines. Following construction, Equitrans would maintain about 32 acres for operation of the Project facilities; the remaining acreage would be restored and revert to former uses. The proposed H–326, H–330, and H–330 spur pipelines would be collocated with existing pipelines for approximately 58.8 percent, 76.8 percent, and 88.9 percent of the proposed alignments, respectively; and the H–327 and H–328 pipelines are parallel and would be located within a shared pipeline construction right-of-way.

The NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed Project under the relevant general resource areas:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use and visual impacts
- socioeconomics and environmental justice;
- air quality, climate change, and noise; and
- reliability and safety.

Based on an initial review of Equitrans' proposal, supplement, and public comments received during Equitrans' open houses, Commission staff have identified several potential/expected impacts that deserve attention in the environmental document. Construction of the Project would potentially impact 13 waterbodies and about 0.4 acre of wetland, as well as affect noise, traffic, and road conditions. Construction and operation could impact/interfere with existing mining operations and have potential for an increased risk of landslides. Operation of the Project would also result in emissions estimated at 6.77 million metric tonnes per year of carbon dioxide (CO_2) from the end use of the natural gas.

Commission staff will also evaluate reasonable alternatives to the proposed Project or portions of the Project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed Project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [3] and the

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. 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 TTY (202) 502–8659.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive an instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate in the preparation of the environmental document.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), other government agencies, interested Indian tribes, and the public to solicit their views and concerns regarding the Project's potential effects on historic properties.[5] The environmental document for this Project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the Project, which includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, as well as anyone who submits comments on the Project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–44–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP22–44). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11439 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations, section 1501.8.

[5] The Advisory Council on Historic Preservation's regulations are at title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–129–000.
Applicants: Sierra Energy Storage, LLC.
Description: Sierra Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 5/23/22.
Accession Number: 20220523–5103.
Comment Date: 5 p.m. ET 6/13/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–686–003.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Refund Report: Refund Report for OATT Settlement to be effective N/A.
Filed Date: 5/23/22.
Accession Number: 20220523–5109.
Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER20–1075–003.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2022–05–23 Compliance Filing—CPM Soft Offer Cap to be effective 4/22/2022.
Filed Date: 5/23/22.
Accession Number: 20220523–5119.
Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER21–2381–002.
Applicants: Wisconsin Electric Power Company.
Description: Tariff Amendment: Amendment to Formula Rate Update Filing to be effective 9/7/2021.
Filed Date: 5/23/22.
Accession Number: 20220523–5068.
Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1518–001.
Applicants: Laurel Mountain BESS, LLC.
Description: Tariff Amendment: Laurel Mountain BESS, LLC MBR Tariff to be effective 4/1/2022.
Filed Date: 5/20/22.
Accession Number: 20220520–5198.
Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: ER22–1931–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Service Agreement FERC No. 803 to be effective 4/29/2022.
Filed Date: 5/20/22.
Accession Number: 20220520–5200.
Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: ER22–1932–000.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2022–05–xx PSCo–Sun Mtn Solar–E&P–630–NOC–0.1.0 to be effective 5/21/2022.

Filed Date: 5/20/22.

Accession Number: 20220520–5202.

Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: ER22–1933–000.

Applicants: Entergy Arkansas, LLC.

Description: § 205(d) Rate Filing: Updated LBA Agreement to be effective 7/19/2022.

Filed Date: 5/20/22.

Accession Number: 20220520–5203.

Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: ER22–1934–000.

Applicants: Elephant Energy, LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Elephant Energy, LLC.

Filed Date: 5/20/22.

Accession Number: 20220520–5261.

Comment Date: 5 p.m. ET 6/10/22.

Docket Numbers: ER22–1935–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Service Agreement No. 859 to be effective 5/1/2021.

Filed Date: 5/23/22.

Accession Number: 20220523–5054.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1936–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Service Agreement No. 865 to be effective 7/22/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5055.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1937–000.

Applicants: Midcontinent Independent System Operator, Inc., Wabash Valley Power Association, Inc.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–05–23_SA 3832 WVPA–PPI TIA to be effective 4/23/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5059.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1938–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company, Southern Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Amendment to Southern's Tariff Vol. No. 4 (Gulf Exiting Pool) to be effective 12/31/9998.

Filed Date: 5/23/22.

Accession Number: 20220523–5070.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1939–000.

Applicants: Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company, Kentucky Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Appalachian Power Company submits tariff filing per 35.13(a)(2)(iii: AEPSC–KPCo TO–TO IA No. 6463 to be effective 12/31/9998.

Filed Date: 5/23/22.

Accession Number: 20220523–5072.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1940–000.

Applicants: American Electric Power Service Corporation, Appalachian Power Company, Kentucky Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits two ILDSAs, SA No. 6458 and 6459 to be effective 12/31/9998.

Filed Date: 5/23/22.

Accession Number: 20220523–5089.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1941–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1518R23 Arkansas Electric Cooperative Corp NITSA NOA to be effective 8/1/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5091.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1942–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6445; Queue No. AE2–211/AF1–057 to be effective 4/21/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5098.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1943–000.

Applicants: Chanarambie Power Partners, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff No. 1 and Tariff ID to be effective 5/24/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5131.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1944–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA Loss Settlement Agreement to be effective 4/27/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5132.

Comment Date: 5 p.m. ET 6/13/22.

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: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11442 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–15–000]

Joint Federal-State Task Force on Electric Transmission; Notice Announcing Meeting and Inviting Agenda Topics

On June 17, 2021, the Commission established a Joint Federal-State Task Force on Electric Transmission (Task Force) to formally explore transmission-related topics outlined in the Commission's order.[1] The Commission stated that the Task Force will convene for multiple formal meetings annually, which will be open to the public for listening and observing and on the record.[2] The next public meeting of the Task Force will be held on July 20, 2022, at the Sheraton San Diego Hotel and Marina in San Diego, California, from approximately 1:00 p.m. to 5:30 p.m. Pacific time. Commissioners may attend and participate in this meeting.

The meeting will be open to the public for listening and observing and on the record. There is no fee for attendance and registration is not

[1] *Joint Fed.-State Task Force on Elec. Transmission,* 175 FERC ¶ 61,224 (2021) (Establishing Order).

[2] *Id.* P 4.

required. The public may attend in person or via Webcast.[3] This conference will be transcribed. Transcripts will be available for a fee from Ace Reporting, 202–347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

As explained in the Establishing Order, the Commission will issue agendas for each meeting of the Task Force, after consulting with all Task Force members and considering suggestions from state commissions.[4] The Establishing Order set forth a broad array of transmission-related topics that the Task Force has the authority to examine with a focus on topics related to planning and paying for transmission, including transmission to facilitate generator interconnection, that provides benefits from a federal and state perspective.[5] All interested persons, including all state commissioners, are hereby invited to file comments in this docket suggesting agenda items relating to this topic by June 6, 2022. The Task Force members will consider the suggested agenda items in developing the agenda for the July 20, 2022 public meeting. The agenda will be issued in the above-captioned docket no later than July 6, 2022, for the meeting to be held on July 20, 2022.

Comments may be filed electronically via the internet.[6] Instructions are available on the Commission's website, *https://www.ferc.gov/ferc-online/overview.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, submissions sent via the U.S. Postal Service must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

More information about the Task Force, including frequently asked questions, is available here: *https://www.ferc.gov/TFSOET.* For more information about this meeting, please contact: Gretchen Kershaw, 202–502–8213, *gretchen.kershaw@ferc.gov*; or Jennifer Murphy, 202–898–1350, *jmurphy@naruc.org.* For information related to logistics, please contact Benjamin Williams, 202–502–8506, *benjamin.williams@ferc.gov*; or Rob Thormeyer, 202–502–8694, *robert.thormeyer@ferc.gov.*

Dated: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11443 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

[3] A link to the Webcast will be available on the day of the event at *https://www.ferc.gov/TFSOET.*

[4] Establishing Order, 175 FERC ¶ 61,224 at PP 4, 7.

[5] *Id.* P 6.

[6] *See* 18 CFR 385.2001(a)(1)(iii) (2021).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1930–000]

Quintessence, 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 Quintessence, 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 June 13, 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: May 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–11445 Filed 5–26–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0664; FRL–9893–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (EPA ICR Number 1901.08, OMB Control Number 2060–0424), 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 May 31, 2022. Public comments were previously requested, via the **Federal Register**, on February 8, 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 June 27, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0664, to: (1) EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

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 Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 were originally promulgated in December 1995, but were vacated by the Federal Court in March 1997. Subsequently, the Emission Guidelines were re-proposed on August 30, 1999; and promulgated on December 6, 2000. The Emission Guidelines regulate organics (dioxin/furans), metals (cadmium, lead, mercury), particulate matter, and acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) for small Municipal Waste Combustion (MWC) units. Small MWC units are MWC units with capacities to combust greater than 35 tons per day (tpd) and less than 250 tons per day (tpd) of municipal solid waste. The Emission Guidelines contain monitoring, reporting, and record-keeping requirements that are to be included in state plans. If a State/Local Agency does not develop, adopt, and submit an approvable State plan, then facilities in that state are subject to the Federal Plan (Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999 (40 CFR part 62, subpart JJJ)), adopted on January 31, 2003. The Federal Plan implements the emission guidelines in jurisdictions that have not developed an approved State Plan. These regulations do not directly apply to small MWC unit owners and operators. However, MWC unit owners and operators must comply with either the State or Federal plans to implement the emission guidelines contained in this Subpart. This ICR identifies the burden to both respondents (owners or operators of small MWC units) and the Designated Administrator (either state/local agencies or the Federal government) to implement the emission guidelines imposed by the State plans. This information is being collected to assure compliance with 40 CFR part 60, subpart BBBB.

Form Numbers: None.

Respondents/affected entities: Owners or operators of existing small MWC units.

Respondent's obligation to respond: Mandatory (40 CFR 60, subpart BBBB).

Estimated number of respondents: 22 (total).

Frequency of response: Semiannually, annually.

Total estimated burden: Respondent burden is 86,500 hours (per year). State/local agency burden for administering the rule is 770 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Respondent cost is $6,130,000 (per year). This includes $422,000 in annualized capital/startup and/or operation & maintenance costs. State/local agency cost is $39,000 per year.

Changes in the Estimates: There is a decrease in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens due to an adjustment in the number of respondents subject to the requirements of Subpart BBBB, which have decreased. This ICR also adjusts the burden to reflect those requirements of Subpart BBBB that are implemented under State plans or a Federal Plan, to incorporate the burden associated with the Federal Plan. The Federal Plan was finalized at 40 CFR part 62, subpart JJJ on January 31, 2003 (68 FR 5158). As of August 20, 2021, EPA data and the listing of approved State plans in the e-CFR indicates that 7 State and local agencies enforce the State plans or have requested and received delegation of enforcement of the Federal Plan. The remainder of the small MWC units will be covered by the Federal Plan, where EPA is the implementing agency. The burden on State and local agencies is included in respondent burden in this ICR, and is similar to the Agency burden in the previous ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–11387 Filed 5–26–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0765; FRL–9852–01–ORD]

Request for Public Nominations of Experts To Review the New Chemicals Collaborative Research Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is seeking nominations for technical experts to serve as Special Government Employees (SGEs) to participate in the review of the New Chemicals Collaborative Research Program with the Board of Scientific Counselors (BOSC), a federal advisory committee to the Office of Research and Development (ORD). Submission of

nominations will be made via the BOSC website at: *https://www.epa.gov/bosc.*

DATES: Nominations should be submitted by June 30, 2022, per instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public needing additional information regarding this Notice and Request for Nominations may contact Mr. Tom Tracy, Office of Science Policy, Office of Research and Development, Mail Code B343–01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; via phone/voice mail at: (919) 541–4334; or via email at: *tracy.tom@epa.gov.* General information concerning the BOSC can be found at the following website: *https://www.epa.gov/bosc.*

SUPPLEMENTARY INFORMATION:

Background

The BOSC is a chartered Federal Advisory Committee established by the EPA to provide independent scientific and technical peer review, advice, consultation, and recommendations about ORD. As a Federal Advisory Committee, the BOSC conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2) and related regulations.

The BOSC is comprised of an Executive Committee and two supporting subcommittee(s): Social and Community Science, and Climate Change. Please visit *https://www.epa.gov/aboutepa/about-office-research-and-development-ord* to learn more about ORD's research programs.

Members of the BOSC constitute a distinguished body of non-EPA scientists, engineers, and economists who are experts in their respective fields. We are seeking SGEs to serve as special experts to assist the BOSC in the review of the New Chemicals Collaborative Research Program in the Fall of 2022.

The BOSC will be evaluating the Office of Research and Development (ORD)'s draft Strategic Research Action Plans Fiscal Years 2023–2026 in Fall 2022. The Fall 2022 meeting will provide a more in-depth evaluation of the Toxic Substances Control Act (TSCA) New Chemicals Collaborative Research Program (See Output CSS.8.4: Innovative science to support new chemicals evaluation in the draft StRAP for Chemical Safety and Sustainability) and associated research plan (*https://www.regulations.gov/document/EPA-HQ-OPPT-2022-0218-0004*). An additional draft document will be provided that summarizes technical details of the research plan. ORD in partnership with the Office of Chemical Safety and Pollution Prevention (OCSPP) are proposing to develop and implement a multi-year collaborative research program focused on approaches for performing risk assessments on new chemical substances under TSCA. The results of the effort are expected to bring innovative science to new chemical reviews, modernize the approaches used, and increase the transparency of the information underpinning the human health and ecological risk assessment process. Key areas proposed in the TSCA New Chemicals Collaborative Research Program include:

- Updating OCSPP's category and read-across approach which uses data from structurally similar chemicals to determine potential risks from new chemicals when data for those chemicals are lacking. This research effort will increase the efficiency of new chemical reviews by identifying appropriate analogues for read across and promoting the use of the best available data to protect human health and the environment. The existing category approach in use dates to 2010 and is available here: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/chemical-categories-used-review-new.*
- Digitizing and consolidating information on chemicals to include data and studies that currently only exist in hard copy or in disparate TSCA databases. The information will be combined with publicly available sources to expand the amount of information available, enhancing chemical reviews and enabling efficient sharing of chemical information across EPA. Safeguards for TSCA confidential business information will be maintained as appropriate in this process. Data curation in public databases will proceed and where possible these databases will be made interchangeable with International Uniform Chemical Information Database (IUCLID) formats.
- Updating and augmenting the models used for predicting a chemical's physical-chemical properties and environmental fate/transport, hazard, exposure (including functional use predictions), and toxicokinetics to provide a suite of models to be used for new chemicals assessments. The goal of this effort is to update the models to reflect the best available science, increase transparency, and establish a process for updating these models as science evolves. The predictive models currently in use by OCSPP for new chemical evaluation are available here: *https://www.epa.gov/tsca-screening-tools.*
- Exploring ways to integrate and apply new approach methods (NAMs) in new chemicals assessments, thereby reducing the use of animal testing. As this effort evolves, the goal is to develop a suite of accepted, fit-for-purpose NAMs that could be used by external stakeholders for data submissions under TSCA as well as informing and expanding new chemical categories.
- Developing a decision support tool that integrates the various information streams specifically used for new chemical risk assessments. The decision support tool will more efficiently integrate all the data streams (*e.g.,* chemistry, fate, exposures, hazards) into a final risk assessment and transparently document the decisions and assumptions made. Simply put, this will facilitate the tracking of the new chemicals program decisions and provide consistency within and across chemistries.

EPA will consider nominees from industry, business, public and private research institutes or organizations, academia, government (federal, state, local, and tribal) and non-government organizations, and other relevant interest areas. EPA values and welcomes diversity. All qualified candidates are encouraged to apply regardless of gender, race, disability, or ethnicity.

Expertise Sought

The EPA invites nominations of individuals to serve as SGEs with expertise or extensive experience in the following scientific disciplines and topic areas as they relate to human health and the environment:

- Using data to develop predictive models and use of predictive models in data poor environment
  - Read across and analogue selection
  - Chemical structures and cheminformatics
  - Quantitative Structure-Activity Relationships (QSAR)
- Development, implementation, and validation of new approach methods (NAMs). Relevant expertise may include:
  - Veterinary pathology or comparative physiology for perspective on relevance of laboratory animals for predicting human outcomes
  - Reference data curation to support validation
- Computational modeling, bioinformatics, and/or statistics
- Toxicokinetics, Physiologically-based pharmacokinetic models (PBPK), and in vitro to in vivo extrapolation (IVIVE)
- Systems biology
- Human health and ecological risk assessment

Exposure modeling and/or assessment, including near-field and far-field sources

- Knowledge of TSCA
- Environmental fate of chemicals

Selection Criteria

Nominations will be evaluated on the basis of several criteria including: (a) Demonstrated scientific and/or technical credentials and disciplinary expertise, knowledge, and experience in relevant fields; (b) availability to serve and willingness to commit time to the committee (approximately one to three meetings per year both by teleconferences and possibly face-to-face meetings); (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; (e) demonstrated ability to work constructively and effectively on committees; and (f) background and experiences that would contribute to the diversity of viewpoints including workforce sector, geographical location, social, cultural, and educational backgrounds, and professional affiliations.

Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified persons to be considered for appointment. Nominations should be submitted via the BOSC website at: *https://www.epa.gov/bosc.* Nominations should be submitted no later than June 30, 2022. To receive full consideration, nominations should include all the information requested. EPA's nomination form requests: Contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita and/or resume; and additional information that would be useful for considering the nomination such as background and qualifications (*e.g.,* current position, educational background, expertise, research areas), experience relevant to the areas mentioned above, service on other advisory committees and professional societies, and availability to participate as an SGE. Persons having questions about the nomination procedures, or who are unable to submit nominations through the BOSC website, should contact Mr. Tom Tracy, as indicated above under **FOR FURTHER INFORMATION CONTACT** section of this notice.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2022–11421 Filed 5–26–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–018]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed May 16, 2022 10 a.m. EST

Through May 23, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220073, Revised Final, USFS, CA, Lassen National Forest Over-Snow Vehicle (OSV) Use Designation, *Review Period Ends:* 06/27/2022, Contact: Kathleen Moore 530–252–6638.

Dated: May 23, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–11429 Filed 5–26–22; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2022–6011]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection of information is necessary to determine eligibility of the export sales for insurance coverage. The Report of Premiums Payable for Financial Institutions Only is used to determine the eligibility of the shipment(s) and to calculate the premium due to EXIM for its support of the shipment(s) under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

DATES: Comments must be received on or before July 26, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 92–30) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048–0021. The information collection tool can be reviewed at: *https://img.exim.gov/s3fs-public/pub/pending/EIB%2092-30%20Report%20of%20Premiums%20Payable%20for%20Financial%20Institutions%20Only%20-%202022%20draft.pdf.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–30 Report of Premiums Payable for Financial Institutions Only.

OMB Number: 3048–0021.

Type of Review: Renewal.

Need and Use: This collection of information is necessary to determine eligibility of the applicant for EXIM assistance. The information collected enables EXIM to determine the eligibility of the shipment(s) for insurance and to calculate the premium due to EXIM for its support of the shipment(s) under its insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 215.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 1,290 hours.

Frequency of Reporting of Use: Monthly.

Government Expenses:

Reviewing Time per Year: 860 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $36,550 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $43,860.

Bassam Doughman,

IT Specialist.

[FR Doc. 2022–11404 Filed 5–26–22; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Proposed 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 Reports of Foreign Banking Organizations (FR Y–7N, FR Y–7NS, and FR Y–7Q; OMB No. 7100–0125).

DATES: Comments must be submitted on or before July 26, 2022.

ADDRESSES: You may submit comments, identified by FR Y–7N, FR Y–7NS, and FR Y–7Q, 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:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St 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 Proposals

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 collection of information is 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 collection, 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 Collection

Collection title: Reports of Foreign Banking Organizations.

Collection identifiers: FR Y–7N, FR Y–7NS, and FR Y–7Q.

OMB control number: 7100–0125.

Frequency: Quarterly, annually.

Respondents: Non-functionally regulated U.S. nonbank subsidiaries held by foreign banking organizations (FBOs) other than through a U.S. bank holding company (BHC), financial holding company (FHC), or U.S. bank.

Estimated number of respondents: FR Y–7N (quarterly): 28; FR Y–7N (annual): 14; FR Y–7NS: 18; FR Y–7Q (quarterly): 120; FR Y–7Q (annual): 30.

Estimated average hours per response: FR Y–7N (quarterly): 7.6; FR Y–7N (annual): 7.6; FR Y–7NS: 1; FR Y–7Q (quarterly): 3.25; FR Y–7Q (annual): 2.5.

Estimated annual burden hours: FR Y–7N (quarterly): 851; FR Y–7N (annual): 106; FR Y–7NS: 18; FR Y–7Q (quarterly): 1,560; FR Y–7Q (annual): 75.

General description of collection: The FR Y–7N consists of an income statement and a balance sheet; schedules that collect information on changes in equity capital, changes in the allowance for loan and lease losses, off-balance-sheet data items, and loans; and a memoranda section. All FBOs file the FR Y–7N quarterly for their significant nonbank subsidiaries that do not have a primary U.S. regulator other than the Federal Reserve System. Subsidiaries are defined as significant if they have total assets of at least $1 billion or off-balance-sheet activities (including commitments to purchase foreign currencies and U.S. dollar exchange, all other futures and forwards contracts, option contracts, and the notional value of interest rate swaps, exchange swaps and other swaps) of $5 billion or more, as of the end of a quarter. FBOs must commence quarterly reporting for a subsidiary at the end of the quarter in which the subsidiary meets the significance threshold, and must continue to file quarterly for the remainder of a calendar year even if the subsidiary no longer satisfies the size requirement for quarterly filing of the FR Y–7N.

The FR Y–7N is filed annually, as of December 31, for each individual

nonbank subsidiary that does not meet the criteria for filing quarterly and that has total assets of at least $500 million.

The FR Y–7NS is an abbreviated reporting form that collects net income, total assets, equity capital, and total off-balance-sheet data items. The FR Y–7NS is filed annually, as of December 31, by top-tier FBOs for each individual nonbank subsidiary that does not have a primary U.S. regulator other than the Federal Reserve System (and does not meet the filing criteria for filing the FR Y–7N) with total assets greater than or equal to $250 million.

The FR Y–7Q collects consolidated capital and asset information from all FBOs. Part 1 of the reporting form currently collects the following information: Tier 1 capital; total risk-based capital; risk-weighted assets; total consolidated assets; total combined assets of U.S. operations; net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies; and total U.S. non-branch assets. In addition, an FBO that files the FR Y 7Q because it has made an effective election to be treated as an FHC also must provide separate capital schedules on Part 2 of the FR Y–7Q quarterly for each lower-tier FBO operating a branch, agency, Edge or agreement corporation, or commercial lending company in the United States. Part 1A of the FR Y–7Q is filed quarterly by FBOs if the top-tier FBO or any FBO in its tiered structure has made an effective election to be treated as an FHC and by FBOs with total consolidated assets of $50 billion or more, regardless of FHC status. Part 1B of the FR Y–7Q is filed quarterly by FBOs with combined U.S. assets of $100 billion or more, or combined U.S. assets of less than $100 billion but total consolidated assets of $250 billion or more. The FR Y–7Q is filed annually if the FBO or any FBO in its tiered structure has not effectively elected to be an FHC and the FBO has total consolidated assets of less than $50 billion.

Proposed revisions: For the FR Y–7Q, the Board proposes to add an additional line item on Part 1A., Capital and Asset Information for the Top-tier Foreign Banking Organization, to collect the total combined U.S. assets net of intercompany balances and transactions on a quarterly average basis. This line item would be used for analytical purposes to track the growth of FBOs in the U.S. and to make reporting more consistent with the reporting of total combined assets of U.S. operations, net of intercompany balances and transactions in the Systemic Risk Report (FR Y–15; OMB No. 7100–0352), which is filed by some FBOs.

The Board also proposes to revise the FR Y–7Q report to remove the option of filing on a fiscal year basis and to instead require the respondent to file on a calendar period basis. As of December 31, 2020, only approximately five percent of respondents submitted the FR Y–7Q on a fiscal year basis. The elimination of the fiscal filing basis would be consistent with other Federal Reserve regulatory reports. The change also would enhance the Board's ability to monitor FBOs that may be approaching the asset threshold to file the FR Y–15, as well as to provide data on the same filing frequency basis as with the U.S. legal entity regulatory report forms (*i.e.,* Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), Consolidated Reports of Condition of Income (FFIEC 031/041/051; OMB No. 7100–0036)). In addition, the change would enable calculations for Regulation TT assessments to be made at the same speed and efficiency as for domestic-only holding companies, which file the FR Y–9C.

Additionally, the Board proposes to change the filing deadline from 90 days after quarter-end to 30 days after quarter-end for quarterly filers and from 90 days after quarter-end to 45 days after quarter-end for annual filers. Shortening the reporting deadline will allow for more timely analysis needed for effective FBO supervision; the efficiency gain will also allow for a more expedient process for Supervision staff to have a full picture of the FBO's financial structure from parent company global and US assets, consistent with the FBO's legal entities. The instructions were modified, effective December 31, 2021, to note that respondents would also have the option to submit the FR Y–7Q report electronically via Reporting Central. Electronic filing provides respondents with a more efficient option to submit the FR Y–7Q report.

Finally, the Board proposes to remove line item 8, as-of financial date, in Part 1A and line item 6, as-of financial date, in Part 2, as the elimination of the fiscal year basis reporting makes these items unnecessary. The Board also proposes to make other minor clarifications and conforming edits to the form and instructions.

The proposed changes would be effective with the FR Y–7Q submission for the December 31, 2022, as-of date.

Legal authorization and confidentiality: The FR Y–7N, Y–7NS, and Y–7Q are authorized by the Bank Holding Company Act (BHC Act) and International Banking Act. The FR Y–7N, Y–7NS, and Y–7Q are additionally authorized by section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The FR Y–7N, Y–7NS, and Y–7Q are mandatory.

The information contained on the FR Y–7N, Y–7NS, and Y–7Q is generally not considered confidential unless an applicant requests confidential treatment in accordance with the Board's Rules Regarding Availability of Information. Requests for confidential treatment of information are reviewed on a case-by-case basis. Information provided on the FR Y–7N, Y–7NS, and Y–7Q may be exempt from disclosure pursuant to exemption 4 of the Freedom of Information Act (FOIA) if it is nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent. Submissions of the FR Y–7N, Y–7NS, and Y–7Q may also contain personnel and medical files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, which are protected under exemption 6 of the FOIA; or information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, which are protected under exemption 8 of the FOIA.

Board of Governors of the Federal Reserve System, May 24, 2022.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–11505 Filed 5–26–22; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at

the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 27, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *S.B.C.P. Bancorp, Inc., Cross Plains, Wisconsin;* to merge with Monona Bankshares, Inc., and thereby indirectly acquire Monona Bank, both of Monona, Wisconsin.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–11474 Filed 5–26–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0073; Docket 2022–0053; Sequence 9]

Submission for OMB Review; Certain Federal Acquisition Regulation Part 32 Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision of a previously approved information collection requirement regarding certain Federal Acquisition Regulation part 32 requirements.

DATES: Submit comments on or before June 27, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Additionally, submit a copy to GSA through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

Instructions: All items submitted must cite OMB Control No. 9000–0073, Certain Federal Acquisition Regulation Part 32 Requirements. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0073, Certain Federal Acquisition Regulation Part 32 Requirements

B. Needs and Uses

DoD, GSA, and NASA are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of OMB Control No. 9000–0073 and combines it with the previously approved information collections under OMB Control Nos. 9000–0070, 9000–0074, 9000–0102, and 9000–0144, with the new title ''Certain Federal Acquisition Regulation Part 32 Requirements''. Upon approval of this consolidated information collection, OMB Control Nos. 9000–0070, 9000–0074, 9000–0102, and 9000–0144 will be discontinued. The burden requirements previously approved under the discontinued numbers will be covered under OMB Control No. 9000–0073.

This clearance covers the information that offerors, contractors, or both must submit to comply with the following FAR requirements:

FAR 32.408, Application for Advance Payments. In accordance with FAR 32.408(b), contractors requesting advance payments must submit their request in writing to the contracting officer and provide the following information:

- A reference to the contract if the request concerns an existing contract, or a reference to the solicitation if the request concerns a proposed contract.
- A cash flow forecast showing estimated disbursements and receipts for the period of contract performance.
- The proposed total amount of advance payments.
- The name and address of the financial institution at which the contractor expects to establish a special account as depository for the advance payments.
- A description of the contractor's efforts to obtain unguaranteed private financing or a V-loan under eligible contracts.
- Other information appropriate to an understanding of
  - the contractor's financial condition and need,
  - the contractor's ability to perform the contract without loss to the Government, and
  - financial safeguards needed to protect the Government's interest.

The information is used to determine if advance payments should be provided to the contractor.

FAR 52.232–1 through 52.232–4, 52.232–6, 52.232–7, and 52.232–10—Payments. The following FAR clauses require the contractor to (as appropriate to the payment terms specified in the contract) provide a proper invoice or voucher. The information is used to determine the proper amount of payments to Federal contractors.

- 52.232–1, Payments.
- 52.232–2, Payments under Fixed-Price Research and Development Contracts.
- 52.232–3, Payments under Personal Services Contracts.
- 52.232–4, Payments under Transportation Contracts and Transportation-Related Services Contracts.

○ 52.232–6, Payment under Communication Service Contracts with Common Carriers.

○ 52.232–7, Payments under Time-and-Materials and Labor-Hour Contracts.

○ 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts.

''Proper invoice'' is defined in FAR part 2 as an invoice that meets the minimum standards specified in FAR 32.905(b), which include the following items:

○ Name and address of the contractor.

○ Invoice date and invoice number.

○ Contract number or other authorization for supplies delivered or services performed (including order number and line item number).

○ Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

○ Shipping and payment terms.

○ Name and address of contractor official to whom payment is to be sent.

○ Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

○ Taxpayer Identification Number (TIN) if required by agency procedures.

○ Electronic funds transfer (EFT) banking information if required by agency procedures.

○ Any other information or documentation required by the contract (*e.g.,* evidence of shipment).

FAR 52.232–5, Payments under Fixed-Price Construction Contracts. This clause requires the contractor's request for progress payments to include the following substantiation:

○ An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

○ A listing of the amount included for work performed by each subcontractor under the contract.

○ A listing of the total amount of each subcontract under the contract.

○ A listing of the amounts previously paid to each such subcontractor under the contract.

○ Additional supporting data in a form and detail required by the contracting officer.

Paragraph (c) of FAR clause 52.232–5 requires contractors to provide a certification with each request for progress payment certifying that—

○ The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

○ All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by the certification;

○ The request for progress payment does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

○ The certification is not to be construed as final acceptance of a subcontractor's performance.

Paragraph (d) of FAR clause 52.232–5 requires contractors to notify contracting officers, if the contractor, after making a certified request for progress payments, discovers that a portion or all of the request constitutes a payment for performance by the contractor that fails to conform to the specifications, terms, and conditions of the contract. Contractors must notify the contracting officer that the performance deficiency has been corrected.

The information is used to determine the proper amount of payments to Federal contractors for construction contracts.

FAR 52.232–12, Advance Payments. If advance payments are authorized, this clause requires contractors to submit the following:

○ Per paragraph (g)—The financial institution agreement, in the form prescribed by the administering office, establishing the special account, and clearly setting forth the special character of the account and the responsibilities of the financial institution under the account.

○ Per paragraph (i)(3)—Notification of a lien in favor of the Government to a third person receiving any items or materials on which the Government has a lien, and a receipt from that third person acknowledging the existence of the lien. Contractors are also required to provide a copy of each receipt to the contracting officer.

○ Per paragraph (m)—(1) Monthly, signed or certified balance sheets and profit and loss statements together with a report on the operation of the special account in the form prescribed by the administering office; and (2) If requested, other information concerning the operation of the contractor's business. (This same requirement is at paragraph (j) of the clause with its Alternate V.)

If advance payments are authorized, the information is used to ensure proper procedures are followed to protect the Government's interest.

FAR 52.232–20 and 52.232–22—Limitation of Costs or Funds. FAR clause 52.232–20, Limitation of Cost, requires the contractor to notify the contracting officer in writing whenever it has reason to believe that—

○ The costs the contractors expect to incur under the contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or

○ The total cost for the performance of the contract will be greater or substantially less than estimated.

As part of the notification, the contractor must provide a revised estimate of the total cost of performing the contract.

FAR clause 52.232–22, Limitation of Funds, requires the contractor to notify the contracting officer in writing whenever it has reason to believe that the costs it expects to incur under the contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the contractor's corresponding share. The notice must state the estimated amount of additional funds required to continue performance for the contract period. Sixty days before the end of the contract period, the contractor must notify the contracting officer in writing of the estimated amount of additional funds, if any, required to continue performance under the contract, and when the funds will be required.

The information is used to avoid cost overruns and to ensure that funding is available to complete work under Federal contracts.

FAR 52.232–27, Prompt Payment for Construction Contracts. Paragraph (a)(6)(ii) of FAR clause 52.232–27 requires contractors making a written demand to the designated payment office for additional penalty payment to support their demand with the following data:

- Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
- Attach a copy of the invoice on which the unpaid late payment interest was due; and
- State that payment of the principal has been received, including the date of receipt.

Paragraph (e)(5) of FAR clause 52.232–27 requires contractors to notify contracting officers upon—

- Reduction of the amount of any subsequent certified application for payment; or
- Payment to the subcontractor of any withheld amounts of a progress

payment, specifying: The amounts withheld; and the dates that the withholding began and ended.

Paragraph (g) of FAR clause 52.232–27 requires contractors to issue a written notice of any withholding to a subcontractor (with copy to the contracting officer), specifying—

- The amount to be withheld;
- The specific causes for the withholding under the terms of the subcontract; and
- The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

Paragraph (l) of FAR clause 52.232–27 requires contractors to remit overpayments to the payment office cited in the contract along with a description that includes the following:

- Circumstances of the overpayment (*e.g.,* duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- Affected contract number and delivery order number if applicable;
- Affected line item or subline item, if applicable; and
- Contractor point of contact.

Contractors are required to provide a copy of the remittance and supporting documentation to the contracting officer.

The information is used to understand when the contractor withholds amounts from subcontractors and suppliers after the Government has already paid the contractor the amounts withheld.

FAR 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management. This clause requires contractors to provide the following information to enable the Government to make payments under the contract by EFT:

- The contract number (or other procurement identification number).
- The contractor's name and remittance address.
- The signature, title, and telephone number of the contractor official authorized to provide this information.
- The name, address, and 9-digit Routing Transit Number of the contractor's financial agent.
- The contractor's account number and the type of account.
- If applicable, the Fedwire Transfer System telegraphic abbreviation of the contractor's financial agent.
- If applicable, the contractor must provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the contractor's financial agent is not directly on-line to the Fedwire Transfer System.

The burden to provide the information required by the FAR clause at 52.232–33, Payment by Electronic Funds Transfer—System for Award Management, is covered by OMB Control Number 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements. OMB Control Number 9000–0189 accounts for new registrations and renewals in the System for Award Management, which includes providing the EFT information.

The information is used to enable the Government to make contract payments by EFT.

C. Annual Burden

Respondents: 275,319.

Total Annual Responses: 1,817,432.

Total Burden Hours: 471,947.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 87 FR 1599, on March 21, 2022. Two comments were received; however, they did not change the estimate of the burden.

Comments: One of the comments is not related to the information collection. The other comment is a vendor's presentation of their products and services regarding payment solutions.

Response: The commenters did not express an opinion on whether the estimated number of burden hours is accurate; or ways to minimize the burden of the collection of information. The information collection revision does not reflect any changes to the FAR requirements. Adjustments are made to the public and Government burden estimates based on the most recent data available.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0073, Certain Federal Acquisition Regulation Part 32 Requirements.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–11389 Filed 5–26–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Office of Refugee Resettlement Cash and Medical Assistance Program Quarterly Report on Expenditures and Obligations (ORR–2) (OMB #0970–0407)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF) is requesting a 3-year extension of the form ORR–2, Cash and Medical Assistance Program Quarterly Report on Expenditures and Obligations (OMB #0970–0407, expiration 9/30/2022). There are no changes requested to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ORR reimburses, to the extent of available appropriations, certain non-federal costs for the provision of cash and medical assistance (CMA) to refugees, along with allowable expenses for the administration of the refugee resettlement program at the state level. States and Replacement Designees currently submit the ORR–2 Quarterly Report on Expenditures and Obligations, which provides aggregate expenditure and obligation data. The ORR–2 collects expenditures and obligations data separately for each of the four following CMA program components: Refugee cash assistance, refugee medical assistance, CMA administration, and services for unaccompanied minors. This breakdown of financial status data allows ORR to track program expenditures in greater detail to anticipate any funding issues and to meet the requirements of ORR regulations at CFR 400.211 to collect these data for use in estimating future

costs of the refugee resettlement program. ORR must implement the methodology at CFR 400.211 each year after receipt of its annual appropriation to ensure that appropriated funds will be adequate for reimbursement to states of the costs for assistance provided to entering refugees. The estimating methodology prescribed in the regulations requires the use of actual past costs by program component. If the methodology indicates that appropriated funds are inadequate, ORR must take steps to reduce federal expenses, such as by limiting the number of months of eligibility for Refugee Cash Assistance and Refugee Medical Assistance. The ORR–2 is a single-page financial report that allows ORR to collect the necessary data to ensure that funds are adequate for the projected need and thereby meet the requirements of both the Refugee Act and ORR regulations.

Respondents: State governments and Replacement Designees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Annual burden hours
ORR–2, Cash and Medical Assistance Program Quarterly Report on Expenditures and Obligations	66	4	1.5	396

Estimated Total Annual Burden Hours: 396.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 8 U.S.C. 1522 Sec. 412 and 8 U.S.C. 524 (Title IV), Sec. 414.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–11409 Filed 5–26–22; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0557]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarket Surveillance of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for postmarket surveillance of medical devices.

DATES: Submit either electronic or written comments on the collection of information by July 26, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 26, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 26, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–0557 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarket Surveillance of Medical Devices.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarket Surveillance of Medical Devices—21 CFR Part 822

OMB Control Number 0910–0449—Extension

Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) authorizes FDA to require a manufacturer to conduct postmarket surveillance (PS) of any device that meets the criteria set forth in the statute. The PS regulation establishes procedures that FDA uses to approve and disapprove PS plans. The regulation provides instructions to manufacturers, so they know what information is required in a PS plan submission. FDA reviews PS plan submissions in accordance with 21 CFR 822.15 through 822.19 of the regulation, which describe the grounds for approving or disapproving a PS plan. In addition, the PS regulation provides instructions to manufacturers to submit interim and final reports in accordance with 21 CFR 822.38. Respondents to this collection of information are those manufacturers that require PS of their products.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§§ 822.9 and 822.10; PS submission	5	1	5	120	600
§ 822.21; Changes to PS plan after approval	9	1	9	40	360
§ 822.28; Changes to PS plan for a device that is no longer marketed	1	1	1	8	8
§ 822.29; Waiver	0	0	0	40	0
§ 822.30; Exemption request	0	0	0	40	0
§ 822.38; Periodic reports	17	3	51	40	2,040
Total					3,008

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Reporting Burden Estimate: The burden captured in table 1 is based on the data from FDA's internal tracking system. 21 CFR 822.26, 822.27, and 822.34 do not constitute information collection subject to review under the PRA because it entails no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument (see 5 CFR 1320.3(h)(1)).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part/activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§ 822.31; Manufacturer records	5	1	5	20	100
§ 822.32; Investigator records	15	1	15	5	75
Total					175

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Recordkeeping Burden Estimate: FDA expects that at least some of the manufacturers will be able to satisfy the PS requirement using information or data they already have. For purposes of calculating burden, however, FDA has assumed that each PS order can only be satisfied by a 3-year clinically based surveillance plan, using three investigators. These estimates are based on FDA's knowledge and experience with PS.

We have adjusted our burden estimate, which has resulted in a decrease to the currently approved burden. Our estimated burden for the information collection reflects an overall decrease of 4,780 hours and a corresponding decrease of 13 responses. We believe these adjustments more accurately reflect the current number of requests associated with postmarket surveillance of medical devices.

Dated: May 23, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11412 Filed 5–26–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–2808]

Advanced Prostate Cancer: Developing Gonadotropin-Releasing Hormone Analogues; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Advanced Prostate Cancer: Developing Gonadotropin-Releasing Hormone Analogues.'' This guidance describes FDA's current recommendations regarding the overall development program and clinical trial designs for developing gonadotropin-releasing hormone (GnRH) analogues to treat advanced prostate cancer. This guidance finalizes the draft guidance of the same title issued in July 2019.

DATES: The announcement of the guidance is published in the **Federal Register** on May 27, 2022.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–2808 for ''Advanced Prostate Cancer: Developing Gonadotropin-Releasing Hormone Analogues; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://*

www.regulations.gov and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Elaine Chang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2169, Silver Spring, MD 20993–0002, 240–402–2628.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Advanced Prostate Cancer: Developing Gonadotropin-Releasing Hormone Analogues.'' This guidance describes FDA's current recommendations regarding the overall development program and clinical trial designs for developing GnRH analogues to treat advanced prostate cancer.

This guidance finalizes the draft guidance of the same title issued on July 18, 2019 (84 FR 34400). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance included clarifying the scope of the guidance in the introduction section, adding recommendations on safety monitoring, and broadening recommendations on the appropriate trial population to include metastatic as well as biochemically recurrent disease rather than only metastatic.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Advanced Prostate Cancer: Developing Gonadotropin-Releasing Hormone Analogues.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by the OMB under the PRA. The collections of information in 21 CFR part 210 and 211, 21 CFR part 314, and 21 CFR part 601 have been approved under OMB control numbers 0910–0139, 0910–0001, and 0910–0338, respectively. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014. The collections of information in 21 CFR 201.56 and 201.57 for the content and format of labeling for human prescription drug and biological products have been approved under OMB control number 0910–0572. The collections of information in 21 CFR part 58 for good laboratory practice have been approved under OMB control number 0910–0119.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov*.

Dated: May 23, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11410 Filed 5–26–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0589]

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on July 28, 2022, from 9 a.m. to 5:45 p.m. Eastern Time and July 29, 2022, from 9 a.m. to 4 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions, including information regarding special accommodations due to a disability, may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm*.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–0589. The docket will close on August 29, 2022. Submit either electronic or written comments on this public meeting by August 29, 2022. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 29, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 29, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before July 11, 2022, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–0589 for ''General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Candace Nalls, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5216, Silver Spring, MD 20993–0002, 301–636–0510, *Candace.Nalls@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On July 28, 2022, the committee will discuss the topic of skin lesion analyzer technology and its application to detecting skin cancers in various patient care settings. The skin lesion analyzer devices on which the discussion is focused at this meeting are algorithm-based devices for adjunctive detection of various skin lesions, including skin cancers. We will refer to these computer algorithm-aided devices for adjunctive detection of lesions suspicious for skin cancers as Skin Lesion Analyzers (SLAs). In recent years, FDA has seen an increased interest in the development of skin lesion analyzers that employ artificial intelligence and machine learning. These devices include a range of technologies and intended user populations. FDA is interested in the committee members' perspectives on approaches for evaluating the performance of SLA devices given the heterogeneity of technologies and indications.

FDA is convening this committee to promote an open public discussion of, and seek expert opinion on, currently available scientific and clinical data pertaining to the diagnosing standard also known as ground truth, performance criteria, and patient population in future studies assisting medical providers in properly identifying skin lesions by a computer algorithm-aided device. The committee will be asked to discuss and provide recommendations regarding:

• The diagnosing standard, or ground truth, based on factual data that should be used as a comparison for the performance of diagnostic devices including, but not limited to, histology, consensus opinion of a panel of dermatologists, opinion of a single dermatologist, or other means.

• Acceptable thresholds for sensitivity and specificity based on the target diagnosis (melanoma, basal cell carcinoma (BCC), squamous cell carcinoma (SCC)), or on the intended user (dermatologist, primary care physician, lay user) if assessed for standalone performance.

• Patient characteristics, including lower or higher incidence populations, that should be tested before marketing.

• Balance of increased access with risk mitigation measures that are appropriate when the devices are used by lay people, by populations with very high or very low incidence of melanoma, by populations with low incidence, but high mortality associated with melanoma, or by the target diagnosis/lesion type (melanoma, BCC, SCC)

On July 29, 2022, the committee will discuss the possible reclassification of approved computer-aided melanoma detection class III devices: (1) MelaFind, a device that uses multispectral imaging and was approved in 2012 (P090012; *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?id=p090012*), and (2) Nevisense, a device that measures impedance and was approved in 2017 (P150046; *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?id=P150046*).

Both Melafind and Nevisense devices are intended for use on cutaneous lesions suspicious for melanoma when a dermatologist chooses to obtain additional information when considering biopsy. The committee will discuss if there is sufficient information to reclassify computer-aided devices for adjunctive diagnostic information of lesions suspicious for melanoma from class III to class II, and what special controls may be appropriate to provide reasonable assurance of safety and effectiveness for these devices if they are reclassified as class II devices.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before July 11, 2022, will be provided to the panel. Oral presentations from the public will be scheduled on July 28, 2022, between approximately 1 p.m. and 2 p.m. Eastern Time, and on July 29, 2022, between approximately 1 p.m. and 2 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 28, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 29, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Artair Mallett, at *Artair.Mallett@fda.hhs.gov* or 301–796–9638, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11420 Filed 5–26–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Establishment of the Advanced Research Projects Agency for Health

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) has modified its structure. This notice announces the establishment of the Advanced Research Projects Agency for Health (or ARPA–H).

DATES: This reorganization was approved by the Secretary of Health and Human Services and takes effect May 24, 2022.

SUPPLEMENTARY INFORMATION: Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (HHS) (May 27, 1975 at 40 FR 22859, as amended most recently on November 3, 2004 at 69 FR 64081, and redesignated from Part HN as Part N on November 9, 1995 at 60 FR 56605, is amended as set forth below to implement ARPA–H.

Section N, *Organization and Functions* is amended as follows:

(1) Under *Grants Management Branch (NW83, formerly HNW83)* insert the following:

Advanced Research Projects Agency for Health (NY, formerly HNY). (1) Provides leadership for high-risk, high-reward biomedical and health research to speed application and implementation of health breakthroughs equitably. (2) Creates, supports, and manages programs to catalyze the development of transformative, evidenced-based, use-driven capabilities, platforms, and technologies in a range of biomedical and health research areas. (3) Facilitates partnerships and collaboration among government, academia, industry, and other sectors to accelerate the translation of innovation into meaningful and measurable benefits for the nation. (4) Converts use-driven research into tangible, sustainable solutions for patients.

Acquisition and Contracting Office (NY2, formerly HNY2). (1) Advises the ARPA–H Director and staff on acquisition and contract and grant financial advisory services. (2) Develops/implements ARPA–H policies, provides oversight, and manages the operational components in the areas of acquisition and contracts management, including other transactions. (3) Manages and conducts a comprehensive program of all research and development contracting, non-research and development contracting, ARPA–H support contracting, and commercial item acquisitions using simplified acquisition procedures, GSA Federal Supply Schedule acquisitions and simplified acquisitions. (4) Provides advice and assistance regarding all phases of the acquisition cycle from planning to closeout with the purpose of accomplishing all acquisitions needed for the scientific mission and all related acquisitions required by its customers.

Comptroller's Office (NY3, formerly HNY3). (1) Directs ARPA–H-wide budget policy, planning, analysis, formulation, and presentation, in collaboration with HHS Office of the Assistant Secretary for Financial Resources and NIH Office of Budget. (2) Manages the ARPA–H appropriated budget, including reprogramming and coordination of the use of the Director's Discretionary Fund and transfer authority. (3) Advises the ARPA–H Director and staff and provides leadership and direction for budgetary matters and financial management activities. (4) Develops policies and instructions for central services budget preparation and presentation. (5) Administers allocation of funds and manages a system of fund and budgetary controls. (6) Provides an ARPA–H manpower resource control system designed to allocate resources. (7) Provides, develops, and maintains an ARPA–H Management Account

Structure. (8) Directs planning and implementation of ARPA–H fiscal systems and procedures, in coordination with NIH and/or HHS fiscal systems and procedures, and provides accounting services to all ARPA–H components. (9) Supports the Office of Acquisition and Contracting (OAC) in the development of policies and procedures pertaining to grants and contracts.

Engagement and Communications Office (NY4, formerly HNY4). (1) Plans and directs activities to communicate information about ARPA–H programs and accomplishments to the general public, scientific community, patients and patient groups, professional societies and organizations, and public advocacy groups. (2) Advises the Director of ARPA–H on effective communications strategies. (3) Represents the Director of ARPA–H in relations with media, scientific publications, and other public stakeholder groups. (4) Coordinates communications policy, strategy, and activities, including Freedom of Information Act requests, with the NIH Office of Communications and Public Liaison. (5) Leads internal and external engagement activities and outreach efforts to develop, build, and improve ARPA–H relationships with stakeholders. (6) Develops and implements initiatives to collect feedback and gain support of ARPA–H research initiatives. (7) Collaborates with the ARPA–H Office of Legislative and Congressional Affairs on a range of external advocacy initiatives in furtherance of ARPA–H's mission. (8) Creates and publishes public and agency information resources including regular publications in a variety of formats. (9) Fosters participation in and promotion of ARPA–H activities. (10) Maintains resources for ARPA–H special events, recruitment initiatives and other public-facing activities.

Legislative and Governmental Affairs Office (NY5, formerly HNY5). (1) Advises the ARPA–H Director and staff on the full range of legislative and intragovernmental issues, and provides leadership and direction for ARPA–H legislative analysis, development, and liaison. (2) Identifies, analyzes, and reports on legislative developments relevant to ARPA–H programs and activities and the national biomedical and health research effort. (3) Monitors new legislative proposals and their progress through the legislative process, including changes in the statutory base of ARPA–H activities, and develops and coordinates technical assistance. (4) Assesses, monitors, and manages the ARPA–H relationship with the ARPA–H Congressional Authorizing and Appropriations Committees, as well as other agencies across the federal government, and takes necessary action to facilitate improvements in these relationships. (5) Provides coordination on ARPA–H legislative matters with the NIH, HHS, Congress, Federal Agencies, and other non-Federal national and international organizations. (6) Coordinates the preparation of testimony or statements for ARPA–H leadership before congressional committees or other groups. (7) Develops responses to Congressional requests, develops responses to report language, and special reports, staff documents, or other materials concerning ARPA–H interests, activities, and relationships.

Strategic Resources Office (NY6, formerly HNY6). (1) Advises the ARPA–H Director and staff on all phases of ARPA–H-wide administration and management. (2) Provides leadership and direction to all aspects of ARPA–H management. (3) Oversees the management of functions in the areas of personnel management, management policy, management assessment, and logistics management, IT support, safety, space and facility management, property, support services, and security operations. (4) Coordinates with and serves as a liaison to the relevant NIH offices to provide a high-level of service to ARPA–H staff.

Treatment Innovation Office (NY7, formerly HNY7). (1) Furthers development of novel and innovative therapeutics or other interventions to manage, treat, or cure diseases and conditions. (2) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to disease or condition management therapies. (3) Responds to requests for information on highly technical matters and matters of public policy related to therapeutics and treatment interventions.

Health Equity, Dissemination, and Implementation Office (NY8, formerly HNY8). (1) Advances programs that concentrate on promoting health equity, access to care, and ethical aspects of science and technology development. (2) Undertakes projects and initiatives to address and lessen health disparities and inequities in biomedical and health research within the United States and abroad. (3) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to health equity, inclusion, recruitment, enrollment, and retention, access to care, and ethical aspects of science and technology development, as well dissemination and implementation of those research advances into real-world settings and clinical practice. (4) Responds to requests for information on highly technical matters and matters of scientific and public policy related to health equity, inclusion, recruitment, enrollment, and retention, access to care, and ethical aspects of science and technology development, as well dissemination and implementation of those research advances into real-world settings and clinical practice.

Health Data Office (NY9, formerly HNY9). (1) Focuses on thoughtful approaches to revolutionizing how scientific and health data and information technology are collected, organized, integrated, and used. (2) Develops strategies to assemble interdisciplinary teams to fuse mathematical approaches and biomedical research creating massive datasets that are carefully annotated, made widely available, allow for integration across programs, and are sensitive to issues of subject consent, personal privacy, and unintended biases that are crucial for addressing the most significant biomedical problems faced by society. (3) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to health data and information technology. (4) Responds to requests for information on highly technical matters and matters of scientific and public policy related to health data and information technology.

Health Promotion and Disease Detection Office (NYA, formerly HNYA). (1) Advances approaches, interventions, and technologies that further the overall health and wellness of Americans and prevent diseases. (2) Promotes innovation in tools, technologies, processes, or other approaches that enhance early detection of diseases. (3) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to health promotion and disease detection. (4) Responds to requests for information on highly technical matters and matters of public policy related to health promotion and disease detection.

Health Resources and Policies Office (NYB, formerly HNYB). (1) Advances progress in confronting challenges to the overall ecosystem of biomedical and health research, whether they be processes, policies, or models, to enable acceleration of advances. (2) Applies scientific and engineering principles to solve challenges that delay the delivery of technologies, interventions, or other approaches to the patient. (3) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to health resources and policy. (4) Responds to

requests for information on highly technical matters and matters of scientific and public policy related to health resources and policy.

Systems Technology Office (NYC, formerly HNYC). (1) Focuses on those systems that impact health—from physiologic systems (*e.g.,* immune) to the healthcare system and everything in between. (2) Speeds progress in the integration of systems, including and especially technological approaches to doing so. (3) Advises the ARPA–H Director on matters concerning ARPA–H-sponsored research activities related to health systems technology. (4) Responds to requests for information on highly technical matters and matters of scientific and public policy related to health systems technology.

Equity and Inclusion Office (NYD, formerly HNYD). (1) Coordinates, facilitates, and supports programs to ensure equity, diversity, and inclusion in all aspects of ARPA–H's work. (2) Provides strategic and programmatic leadership for ARPA–H's efforts to reduce health disparities and foster health equity in biomedical research. (3) Evaluates ARPA–H's progress towards achieving greater diversity and health equity in biomedical and health research. (4) Promotes ARPA–H efforts to build a diverse cohort of collaborators, staff, performers, and others.

Strategic Planning, Evaluation, and Analytics Office (NYE, formerly HNYE). (1) Oversees ARPA–H-wide planning, evaluation, and analysis/analytic activities. (2) Advises ARPA–H leadership and staff on all aspects of strategic planning, reporting, and operational effectiveness for ARPA–H activities. (3) Provides leadership and guidance to ARPA–H's business community in the development and oversight of a strategic administrative management plan, goals, organizational effectiveness and business analytics. (4) Oversees the development of analytic and evaluation strategies to drive greater efficiency and effectiveness in administrative and programmatic operations.

Innovation and Entrepreneurship Office (NYF, formerly HNYF). (1) Inspires innovation and creativity throughout ARPA–H, including stimulating the culture of innovation, ideation, and dynamic thinking and leveraging design research and design thinking. (2) Promotes practical strategies to provide resources for programs and projects to incorporate and implement transition principles to inform innovation in overall ARPA–H commercialization strategies. (3) Serves as the ARPA–H focal point for the management of all Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program activities, and implementation of pertinent legislation, rules and regulations and associated matters related to the SBIR/STTR Program. (4) Proposes and implements innovative strategies to promote the commercialization of innovative high impact technologies including research tools, medical devices, and therapeutics throughout the program development and management lifecycle. (5) Assesses the commercial potential of ARPA–H technology priorities and provides guidance on how best to structure programs, projects, and goals for successful transition.

Delegations of Authority: All delegations and redelegations of authority to officers and employees of NIH that were in effect immediately prior to the effective date of this amendment and are consistent with this amendment shall continue in effect, pending further redelegation.

Dated: May 24, 2022.

Xavier Becerra,

Secretary, U.S. Department of Health and Human Services.

[FR Doc. 2022–11519 Filed 5–25–22; 4:15 pm]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be held virtually and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

Name of Committee: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: June 27, 2022.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: Ongoing and new activities at the Frederick National Laboratory for Cancer Research.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Wlodek Lopaczynski, M.D., Ph.D., Assistant Director, Office of the Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Seventh Floor, West Tower, Room 7W514, Bethesda, MD 20892, (240) 276–6458, *lopacw@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: FNLAC: *https://deainfo.nci.nih.gov/advisory/fac/fac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: May 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11458 Filed 5–26–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: July 8, 2022.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 300, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 300, Bethesda, MD 20892, 301–402–8837, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11453 Filed 5–26–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Optimizing Digital Mental Health Interventions (R01).

Date: June 22, 2022.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard NSC 6152B, Bethesda, MD 20892, 301–402–8152, *erin.gray@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Non-Pharmacological Clinical Trials.

Date: June 23, 2022.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Regina Dolan-Sewell, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive BLVD, Room 4154, MSC 9606, Bethesda, MD 20852, *regina.dolan-sewell@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11454 Filed 5–26–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of the National Cancer Advisory Board meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: June 13, 2022.

Open: 1:00 p.m. to 4:00 p.m.

Agenda: NCAB Subcommittee Meetings.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: June 14, 2022.

Open: 12:00 p.m. to 3:30 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Acting Director's Report and Presentations.

Closed: 4:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: June 15, 2022.

Open: 1:00 p.m. to 6:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Board of Scientific Advisors Concepts Review and Presentations.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room. 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: NCAB: *https://deainfo.nci.nih.gov/advisory/ncab/ncabmeetings.htm,* BSA: *https://deainfo.nci.nih.gov/advisory/bsa/bsameetings.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: May 24, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11457 Filed 5–26–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; HEAL Initiative: Data and Methods to Address Urgent Needs to Stem the Opioid Epidemic.

Date: June 27–28, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health National, Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, 3WFN, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *jenny.browning@nih.gov.*

Name of Committee: National Institute on Drug Abuse Initial Review Group; Medication Development Research Study Section.

Date: July 13, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Preethy Nayar, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, 3WFN, MSC 6021, Bethesda, MD 20892, 301–443–4577, *nayarp2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 23, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11401 Filed 5–26–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA–2022–0002]

Notice of Cybersecurity and Infrastructure Security Agency Cybersecurity Advisory Committee Meeting

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee Act (FACA) meeting; request for comments.

SUMMARY: CISA is publishing this notice to announce the following CISA Cybersecurity Advisory Committee meeting. This meeting will be partially closed to the public.

DATES: *Meeting Registration:* Registration to attend the meeting is required and must be received no later than 5 p.m. Eastern Time (ET) on June 20, 2022. For more information on how to participate, please contact *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov.*

Speaker Registration: Registration to speak during the meeting's public comment period must be received no later than 5 p.m. ET on June 20, 2022.

Written Comments: Written comments must be received no later than 5 p.m. ET on June 20, 2022.

Meeting Date: The CISA Cybersecurity Advisory Committee will meet on June 22, 2022, from 8:30 a.m. to 2:30 p.m. CT. The meeting may close early if the committee has completed its business.

ADDRESSES: The CISA Cybersecurity Advisory Committee meeting will be held in-person at the Austin Central Library, located at 710 W Cesar Chavez Street, Austin, TX 78701. Capacity and location are subject to change based on DHS protocol regarding COVID–19 pandemic restrictions at the time of the meeting. Requests to participate will be accepted and processed in the order in which they are received. For access to the conference call bridge, information on services for individuals with disabilities, or to request special assistance, please email *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov.by* 5 p.m. ET on June 20, 2022. The CISA Cybersecurity Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require a reasonable accommodation due to a disability to fully participate, please contact Ms. Megan Tsuyi at (202) 594–7374 as soon as possible.

Comments: Members of the public are invited to provide comments on issues that will be considered by the committee as outlined in the **SUPPLEMENTARY INFORMATION** section below. Associated materials that may be discussed during the meeting will be made available for review at *https://www.cisa.gov/cisa-cybersecurity-advisory-committee* by June 16, 2022. Comments should be submitted by 5 p.m. ET on June 20, 2022 and must be identified by Docket Number CISA–2022–0002. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Please follow the instructions for submitting written comments.
- *Email: CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov.* Include the Docket Number CISA–2022–0002 in the subject line of the email.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the Docket Number for this action. Comments received will be posted without alteration to *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and comments received by the CISA Cybersecurity Advisory Committee, please go to *www.regulations.gov* and enter docket number CISA–2022–0002.

A public comment period is scheduled to be held during the meeting from 12:15 p.m. to 12:30 p.m. CT. Speakers who wish to participate in the public comment period must email *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov* to register. Speakers should limit their comments to 3 minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, depending on the number of speakers who register to participate.

FOR FURTHER INFORMATION CONTACT: Megan Tsuyi, 202–594–7374, *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov.*

SUPPLEMENTARY INFORMATION: The CISA Cybersecurity Advisory Committee was established under the National Defense Authorization Act for Fiscal Year 2021 (Pub.L. 116–283). Notice of this meeting

is given under FACA, 5 U.S.C. Appendix (Pub. L. 92–463). The CISA Cybersecurity Advisory Committee advises the CISA Director on matters related to the development, refinement, and implementation of policies, programs, planning, and training pertaining to the cybersecurity mission of the Agency.

Agenda: The CISA Cybersecurity Advisory Committee will meet in an open session on Wednesday, June 22, 2022 from 12 p.m. to 2:30 p.m. CT to discuss CISA Cybersecurity Advisory Committee activities. The open session will include: (1) A period for public comment, and (2) updates from the six subcommittees, to including deliberation and voting on recommendations from the CISA Cybersecurity Advisory Committee to CISA.

The committee will also meet in a closed session from 8:30 a.m. to 12 p.m. CT to participate in an operational discussion that will address areas of critical cybersecurity vulnerabilities and priorities for CISA. Government officials will share sensitive information with CSAC members on initiatives and future security requirements for assessing cyber risks to critical infrastructure.

Basis for Closure: In accordance with section 10(d) of FACA and 5 U.S.C. 552b(c)(9)(B), *The Government in the Sunshine Act,* it has been determined that one agenda item requires closure, as the disclosure of the information that will be discussed would not be in the public interest.

This agenda item addresses areas of CISA's operations that include critical cybersecurity vulnerabilities and priorities for CISA. Government officials will share sensitive information with CSAC members on initiatives and future security requirements for assessing cyber risks to critical infrastructure. The premature disclosure of this information to the public would be likely to significantly frustrate implementation of proposed agency actions.

Due to the sensitive nature of this discussion, this portion of the meeting is required to be closed pursuant to section 10(d) of FACA and 5 U.S.C. 552b(c)(9)(B).

Megan Tsuyi,

Designated Federal Officer, CISA Cybersecurity Advisory Committee, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2022–11388 Filed 5–26–22; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7062–N–05]

Privacy Act of 1974; System of Records

AGENCY: Privacy Office, HUD.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Housing and Urban Development (HUD), Office of Policy Development & Research (PD&R) is issuing a public notice of its intent to establish a Privacy Act system of records titled the Housing Choice Voucher (HCV) Mobility Demonstration Evaluation data files. The purpose of the HCV Mobility Demonstration Evaluation data files system is to serve as a repository to store, maintain, and statistically analyze all data collected through the evaluation of the HCV Mobility Demonstration.

DATES: This notice action shall be effective immediately, which will become effective June 27, 2022.

Comments will be accepted on or before June 27, 2022. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street, SW, Room 10139; Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov.* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ladonne White; 451 Seventh Street SW, Room 10139; Washington, DC 20410–0001; telephone number 202–708–3054 (this is not a toll-free number). Individuals who are hearing- or speech-impaired may access this telephone number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The HCV Mobility Demonstration Evaluation Data Files will be a data system established to store the information that is needed to evaluate the impact of the Housing Choice Voucher (HCV) Mobility Demonstration. The evaluation will assess the implementation and impact of the pairing of mobility services with HUD housing assistance on a broad range of participant outcomes for both adults and children. In addition to assessing the impact of the program on participating households, the evaluation will also seek to understand the perspective of the public housing agencies that implement the program, the perspective of the mobility service providers that offer mobility services to participating households, and the perspective of landlords in the communities where the demonstration is implemented. This System of Records will contain all information that will be analyzed the evaluate the impact of the Housing Choice Voucher (HCV) Mobility Demonstration.

SYSTEM NAME AND NUMBER:

Housing Choice Voucher (HCV) Mobility Demonstration Evaluation Data Files, PD&R/RRE 09.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

HCV Mobility Demonstration Evaluation Data Files are maintained at the following locations: Abt Associates Inc., 10 Fawcett Street, Cambridge, MA; Abt Associates Inc., 6130 Executive Blvd., Rockville, MD 20852; the AT&T Datacenter, 15 Enterprise Ave, Secaucus, NJ 07094; and the U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–0001.

SYSTEM MANAGER(S):

Carol Star, Director, Program Evaluation Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–0001, Telephone Number (202) 402–6139.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 502 of the Housing and Urban Development Act of 1970 (Pub. L. 91–609) (12 U.S.C. 1701z–1; 1701z–2(d) and (g)).

PURPOSES OF THE SYSTEM:

The purpose of the HCV Mobility Demonstration Evaluation Data Files

will be to store the information that is needed to evaluate the impact of the Housing Choice Voucher (HCV) Mobility Demonstration. The information to be maintained in this records system is necessary to identify and track the participating families over the course of the study and determine the effectiveness of the interventions. The data in this system will be analyzed using statistical methods and any results shared with the public or published in anyway will be reported only in the aggregate. Resulting reports will not disclose or identify any individuals or sensitive personal information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Families enrolled in the HCV Mobility Demonstration, staff at public housing agencies (PHAs) that are administering the HCV Mobility Demonstration, providers of mobility services that are partnering with PHAs to administer the program, and landlords.

CATEGORIES OF RECORDS IN THE SYSTEM:

Head of household's full name, date of birth, social security number, alien registration number, unique study ID, home address, household composition, basic demographics of household members (educational attainment, relationship to head of household, employment status of adults, chronic health conditions of children etc.), housing and neighborhood status, perceptions of opportunity areas, financial well-being, and contact information.

Responses to PHA staff qualitative interviews: Include respondent's full name, title or position, email address, and phone number.

Responses to mobility service providers qualitative interviews: Include respondent's full name, title or position, email address, and phone number.

Responses to landlord qualitative interviews: Include respondent's full name, title or position, email address, phone number, property locations, and audio recording.

Data from the Mobility Services Delivery Management Information Systems: Include service recipients full name, services provided, duration and intensity of services.

Administrative data: Include demographic data on tenants, including social security number, date of birth, race, sex, disability status, household members, home address, contact information, and Housing Choice Voucher program participation information for households (types and dates of program actions).

RECORD SOURCE CATEGORIES:

HCV Mobility Demonstration program participants, Landlords, PHA staff, Mobility service providers, Mobility Services Delivery Management Information Systems, HUD PIH Inventory Management System/PIH Information Center.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Besides those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, HUD may disclose information in this system of records:

1. To a congressional office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual.

2. To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with whom HUD has a contract, service agreement, grant, or cooperative agreement, or other agreement for the purposes of statistical analysis and research in support of program operations, management, performance monitoring, evaluation, risk management, and policy development, or to otherwise support the Department's mission. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. The results of the matched information may not be disclosed in identifiable form.

3. To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, or cooperative agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

4.(a) To appropriate agencies, entities, and persons when: (1) HUD suspects or has confirmed there has breached the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (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 with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b) To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to 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.

5. To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

6. To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; when HUD determines that use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

7. To appropriate Federal, State, local, tribal, or governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforcement of civil or criminal laws when such records, either alone or in conjunction with

other information, indicate a violation or potential violation of law.

8. To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or employees or contractors, and other entities and their agents for the conduct of HUD-approved ancillary studies relevant to the evaluation of the HCV Mobility Demonstration. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. Research reports resulting from any such ancillary studies would be required to report all results in the aggregate and to ensure that no individual was identifiable.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Unique study ID, name, home address, telephone number, and personal email address.

POLICIES AND PRACTICIES FOR RETENTION AND DISPOSAL OF RECORDS:

Records (Electronic data) files are maintained in accordance with HUD Records Disposition Schedule 67.9.b and 67.9.f. The records will be retained as necessary. As such, when projects are satisfactorily closed, and records are no longer needed for administrative purposes, the records will be destroyed when the destruction date is reached. Manual records are destroyed by shredding or burn; electronic records are destroyed in accordance with HUD's IT Security Handbook 2400.25, Section 4.7.6.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

For Electronic Records: All personal data will be maintained on a secure workstation or server that is protected by a firewall and complex passwords in a directory that can only be accessed by the network administrators and the analysts actively working on the data; access rights to the data are granted to limited researchers on a need-to-know basis, and the level of access provided to each researcher is based on the minimal level required that individual to fulfill his research role; all systems used to process or store data have Federal security controls applied to them; the data will be backed up on a regular basis to safeguard against system failures or disasters; and, unencrypted data will never be stored on a laptop or on a movable media such as CDs, diskettes, or USB flash drives.

For Paper Records: The site interviewers will securely store any hard copy forms with personal identifiers until they are shipped to the evaluation contractor via commercial mail services; all hard copy forms with personal identifying data (the participant agreement/informed consent form) will be stored securely in a locked cabinet that can only be accessed by authorized individuals working on the data. The locked cabinet will be stored in a locked office in a limited-access building. Additionally, permissions will be defined for each authorized user based on the user's role on the project. For example, the local site interviewer will be able to review data for study participants only for his or her own specific site. Study data will be aggregated or de-identified at the highest level possible for each required, authorized use.

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 Department of Housing and Urban Development, Attn: FOIA Program Office, 451 7th Street SW, Suite 10139, Washington, DC 20410–0001. or by emailing *foia@hud.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 below.

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.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

N/A.

LaDonne L. White,

Departmental Privacy Officer.

[FR Doc. 2022–11452 Filed 5–26–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–23; OMB Control No.: 2528–0029]

30-Day Notice of Proposed Information Collection: Manufactured Housing Survey

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 27, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 11, 2022, at 87 FR 14028.

A. Overview of Information Collection

Title of Information Collection: Manufactured Housing Survey.

OMB Approval Number: 2528–0029.

Type of Request: Extension of a currently approved collection.

Form Number: C–MH–9A.

Description of the need for the information and proposed use: The Manufactured Housing Survey collects data monthly on the characteristics of

newly manufactured homes placed for residential use. Key data collected includes sales price and the number of units placed and sold. A letter is sent to the dealer—4 months after the—shipment date. Other selected housing characteristics collected include size, location, and titling. HUD uses the statistics to respond to a Congressional mandate in the Housing and Community Development Act of 1980, 42 U.S.C. 5424 note, which authorizes HUD to use its discretion to take actions necessary ensure that the public is fully aware of the distinctions between the various types of manufactured housing. Accordingly, HUD collects, and reports manufactured home sales and price information for the nation, census regions, states, and selected metropolitan areas and monitors whether new manufactured homes are being placed on owned rather than rented lots. HUD also used these data to monitor total housing production and its affordability.

Furthermore, the Manufactured Housing Survey serves as the basis for HUD's mandated indexing of loan limits. Section 2145(b) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. § 2844–2845, requires HUD to develop a method of indexing to annually adjust Title I manufactured home loan limits. This index is based on manufactured housing price data collected by—the United States Census Bureau using this survey. Section 2145(b) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. § 2844–2845 also amends the maximum loan limits for manufactured home loans insured under Title I.

In Title I Letter TI–480, HUD implemented the revised loan limits, as shown below, for all manufactured home loans for which applications are received on or after March 3, 2009.

Loan type	Purpose	Old loan limit	New loan limit
Manufactured Home Improvement Loan	For financing alterations, repairs and improvements upon or in connection with existing manufactured homes.	$17,500	$25,090
Manufactured Home Unit(s)	To purchase or refinance a Manufactured Home unit(s)	48,600	69,678
Lot Loan	To purchase and develop a lot on which to place a manufactured home unit.	16,200	23,226
Combination Loan for Lot and Home	To purchase or refinance a manufactured home and lot on which to place the home.	4,800	92,904

Method of Collection

The methodology for collecting information on new manufactured homes involves contacting dealers from a monthly sample of new manufactured homes shipped by manufacturers. The units are sampled from lists obtained from the Institute for Building Technology and Safety. A file of all manufactured homes sections shipped during the month is provided to the Census Bureau by the Institute for Building Technology and Safety (IBTS) on a monthly basis. Dealers that take shipment of the selected homes are mailed a survey form four months after shipment for recording the status of the manufactured home.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Manufactured Housing Survey	4,860	1	4,860	.33	1,603.80	$31.45	$50,439.51
Total	4,860	.....	.....	.....	1,603.80	.....	50,439.51

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of esponses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Data Officer.

[FR Doc. 2022–11414 Filed 5–26–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–24; OMB Control No.: 2502–0059]

60-Day Notice of Proposed Information Collection: Informed Consumer Choice Disclosure and Application for FHA Insured Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 26, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Application for FHA Insured Mortgages.

OMB Approval Number: 2502–0059.

Type of Request: Revision of currently approved collection.

Form Number: HUD–92900–A, HUD–92900–B, HUD–92900–LT, HUD–92561, Model Notice for Informed Consumer Choice Disclosure, Model Pre-Insurance Review/Checklist, Settlement Certification (previously known as Addendum to HUD–1) and HUD–92544.

Description of the need for the information and proposed use: Specific forms and related documents are needed to determine the eligibility of the borrower and proposed mortgage transaction for FHA's mortgage insurance endorsement. Additional documentation requirements for refinances with partial claims. Lenders seeking FHA's insurance prepare certain forms to collect data.

Respondents (*i.e.,* affected public): Individuals (loan applicants) and Business or other for-profit (lenders).

Estimated Number of Respondents: 1,912.

Estimated Number of Responses: 6,212.229.

Frequency of Response: One for each FHA-insured mortgage.

Average Hours per Response: 1.35 hour (0.74) (varies per form and type of loan).

Total Estimated Burdens: 737,367.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Janet M. Golrick,

Acting, Chief of Staff for the Office of Housing—Federal Housing Administration.

[FR Doc. 2022–11416 Filed 5–26–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[223.LLID957000.L14400000.BJ0000.241A00]

Notice of Filing of Plats of Survey, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing of plats of surveys.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Idaho State Office, Boise, Idaho, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the Bureau of Indian Affairs and the BLM, are necessary for the management of these lands.

Boise Meridian, Idaho

T. 15 S., R. 13 E., Sections 27 and 34, accepted December 22, 2021.
T. 1 N., R. 12 E., Section 25, accepted January 12, 2022.
T. 16 S., R. 11 E., Section 4, accepted January 13, 2022.
T. 5 S., R. 35 E., Sections 25, 26, 27, 28, 29, 32, 33, 34, 35 and 36, accepted February 28, 2022.
T. 5 1/2 S., R. 35 E, Tracts 37–40, accepted February 28, 2022.
T. 8 S., R. 40 E., Sections 25, 26, and 35, accepted March 21, 2022.
T. 37 N., R. 2 W., Sections 25 and 28, accepted March 29, 2022.
T. 34 N., R. 3 E., Sections 8, 14, 17 and 28, accepted May 17, 2022.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT: Timothy A. Quincy, Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657; (208) 373–3981; email: *tquincy@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 7–1–1 (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: The plat, in one sheet, incorporating the field notes of the dependent resurvey of a portion of the south boundary and subdivisional lines and the subdivision of sections 27 and 34, Township 15 South, Range 13 East, Boise Meridian, Idaho, was accepted December 22, 2021.

The plat, in one sheet, incorporating the field notes of the dependent resurvey of portions of the east boundary and subdivisional lines and the subdivision of section 25, Township 1 North, Range 12 East, Boise Meridian, Idaho, was accepted January 12, 2022.

The plat, in one sheet, incorporating the field notes of the dependent resurvey of a portion of the north boundary and subdivisional lines and the subdivision of section 4, Township 16 South, Range 11 East, Boise

Meridian, Idaho, was accepted January 13, 2022.

The plat, in 3 sheets, incorporating the field notes of the corrective dependent resurvey of portions of the east boundary and subdivisional lines, and the dependent resurvey of portions of the 1875 south boundary, subdivisional lines and subdivision of sections 25, 26, 27, 28, 29, 32, 33, 34, and 35, and the survey of tracts 37 through 41, Township 5 South, Range 35 East, Boise Meridian, Idaho, was accepted February 28, 2022.

The plat, in one sheet, incorporating the field notes of the corrective dependent resurvey of portions of the 1892 south boundary, and the dependent resurvey of a portion of the 1892 south boundary, and the survey of tracts 37 through 40, Township 5 1/2 South, Range 35 East, Boise Meridian, Idaho, was accepted February 28, 2022.

The plat, in two sheets, incorporating the field notes of the dependent resurvey of portions of the south boundary, east boundary, subdivisional lines and subdivision of sections 25, 26 and 35, Township 8 South, Range 40 East, Boise Meridian, Idaho, was accepted March 21, 2022.

The plat, in two sheets, incorporating the field notes of the dependent resurvey of portions of the east boundary, subdivisional lines and the 1892 meanders of the Clearwater River in section 28, and subdivision of sections 25 and 28, Township 37 North, Range 2 West, Boise Meridian, Idaho, was accepted March 29, 2022.

The plat, in three sheets, incorporating the field notes of the dependent resurvey of portions of the subdivisional lines, the 1915 segregation survey of the Big Four Lode Mining Claim, the original 1897 meanders of the Clearwater River in sections 17 and 28, and subdivision of sections 8, 14, 17, and 28, Township 34 North, Range 3 East, Boise Meridian, Idaho, was accepted May 17, 2022.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the Chief Cadastral Surveyor for Idaho, Bureau of Land Management within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. The protest must identify the plat(s) of survey that the person or party wishes to protest and contain all reasons and evidence in support of the protest. The protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any protest filed after the scheduled date of official filing will be untimely and will not be considered. A protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Idaho during regular business hours; if received after regular business hours, a protest will be considered filed the next business day. If a protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C., chapter 3)

Timothy A. Quincy,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2022–11449 Filed 5–26–22; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1222]

Certain Video Processing Devices, Components Thereof, and Digital Smart Televisions Containing the Same; Commission Determination Not To Review an Initial Determination Terminating the Investigation Due to Settlement and Setting a Schedule for Briefing an Order Concerning Sanctions; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the ''Commission'') has determined not to review an initial determination (''ID'') (Order No. 76) issued by the presiding administrative law judge (''ALJ'') terminating the investigation due to a settlement agreement. The Commission has also set a briefing schedule in connection with Order No. 75 denying a motion for sanctions. This investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket system (''EDIS'') at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 19, 2020, based on a complaint, as supplemented, filed by DivX, LLC (''DivX'') of San Diego, California. 85 FR 66355 (Oct. 19, 2020). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337, from the importation, sale for importation, or sale in the United States after importation of certain video processing devices, components thereof, and digital smart televisions containing the same by reason of infringement of one or more asserted claims of U.S. Patent Nos. 8,832,297; 10,212,486; 10,412,141; and 10,484,749. *Id.* The complaint further alleges the existence of a domestic industry. *Id.*

The Commission's notice of investigation names the following respondents: Samsung Electronics Co., Ltd. of Gyeonggi-do, Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; Samsung Electronics HCMC CE Complex Co., Ltd. of Ho Chi Minh City, Vietnam (collectively, ''Samsung''); LG Electronics Inc. of Seoul, Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively ''LG''); MediaTek, Inc. of Hsinchu City, Taiwan; MediaTek USA Inc. of San Jose, California; MStar Semiconductor, Inc. of Hsinchu Hsien, Taiwan (collectively, ''MediaTek''); Realtek Semiconductor Corp. of Hsinchu, Taiwan (''Realtek''); TCL Corporation of Huizhou, Guangdong, China; TCL Technology Corporation of Huizhoug, Guangdong, China; TCL Electronics Holdings Ltd. of Shenzhen, Guangdong, China; TTE Technology, Inc. of Corona, California; Shenzhen TCL New Technologies Co. of Shenzhen, Guangdong, China; TCL King Electrical Appliances (Huizhou) Co. Ltd. of Huizhou, Guangdong, China; TCL

MOKA International Ltd. of Sha Tin, New Territories, Hong Kong; and TCL Smart Device (Vietnam) Co., Ltd. of Bac Tan Uyen District, Binh Duong Province, Vietnam (collectively, ''TCL''). *Id.* at 66356. The Office of Unfair Import Investigations was not named as a party to this investigation. *Id.*

The Commission has partially terminated the investigation with respect to certain patents and patent claims. Order No. 25 (Jan. 15, 2021), *unreviewed by* Comm'n Notice (Feb. 1, 2021); Order No. 34 (Feb. 19, 2021), *unreviewed by* Comm'n Notice (March 15, 2021); Order No. 49 (April 21, 2021), *unreviewed by* Comm'n Notice (May 10, 2021); Order No. 65 (June 28, 2021), *unreviewed by* Comm'n Notice (July 28, 2021).

The Commission has also partially terminated the investigation with respect to certain respondents due to settlement agreements. *See* Order No. 37 (terminating MediaTek), *unreviewed by* Comm'n Notice (March 12, 2021); Order No. 67 (July 16, 2021) (terminating RealTek), *unreviewed by* Comm'n Notice (Aug. 4, 2021); Order No. 69 (Aug. 12, 2021) (terminating LG, Samsung), *unreviewed by* Comm'n Notice (Sept. 15, 2021).

On April 19, 2022, DivX and TCL jointly moved to terminate the investigation based on a settlement agreement that resolves the dispute between the parties.

On April 22, 2022, the presiding ALJ issued the subject ID (Order No. 76) granting the joint motion to terminate the investigation based on the settlement agreement. The ID finds that, pursuant to Commission Rules 210.21(a)(1), (b)(1) (19 CFR 210.21(a)(1), (b)(1)), DivX and TCL have represented that there are no other agreements, express or implied, oral or written, between them regarding the subject matter of this investigation. The ID further finds that termination is proper because it would not be contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive conditions in the United States, or U.S. consumers. The ID further finds that termination is in the public interest, and it will conserve public and private resources.

No party filed a petition for review of the subject ID.

On October 4, 2021, former respondent RealTek filed a motion for sanctions against DivX, pursuant to Commission Rules 210.4 and 210.25 (19 CFR 210.4, 210.25), for alleged misrepresentations and misconduct during the investigation. DivX filed its opposition to RealTek's motion on October 14, 2021.

On April 22, 2022, the presiding ALJ issued Order No. 75, denying RealTek's motion for sanctions. Order No. 75 (April 22, 2022).

The Commission has determined not to review Order No. 76. This investigation is hereby terminated.

The Commission has set the following schedule in connection with Order No. 75. Any petition for review of Order No. 75 must be filed by June 1, 2022. Responses to a petition for review, if any, must be filed by June 8, 2022.

The Commission voted to approve this determination on May 24, 2022.

The authority for the Commission's determinations is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 24, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–11460 Filed 5–26–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Barcode Scanners, Scan Engines, Mobile Computers with Barcode Scanning Functionalities, Products Containing the Same, and Components Thereof II, DN 3623;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Honeywell International Inc. and Hand Held Products, Inc. on May 23, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain barcode scanners, scan engines, mobile computers with barcode scanning functionalities, products containing the same, and components thereof II. The complainant names as respondents: Zebra Technologies Corporation of Lincolnshire, IL; and Symbol Technologies, Inc. of Holtsville. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondent, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the

United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments. Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3623'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). 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. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.* Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation 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,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3] This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–11379 Filed 5–26–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–14]

Omar Garcia, M.D.; Decision and Order

On November 4, 2021, the former Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Omar Garcia, M.D. (hereinafter, Respondent) of Ocala, Florida. OSC, at 1 and 3. The OSC proposed the revocation of Respondent's Certificate of Registration No. FG2055158. *Id.* at 1. It alleged that Respondent is ''without authority to handle controlled substances in Florida, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that on September 3, 2021, the Florida Board of Medicine entered an Order that, effective immediately, revoked Respondent's state medical license after a finding that he had been convicted of six counts of Health Care Fraud and excluded for cause from participating in the Florida Medicaid program. *Id.*

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Respondent of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

By email dated January 25, 2022,[1] Respondent's wife submitted a Request for Hearing on Respondent's behalf, stating that Respondent was in federal prison. Request for Hearing dated January 25, 2022. The Office of Administrative Law Judges put the matter on the docket and assigned it to Administrative Law Judge Teresa A. Wallbaum (hereinafter, the ALJ). On January 26, 2022, the ALJ issued an Order Regarding Request for Hearing Attachments and Filing Procedures [2] as well as an Order Directing the Government to File Evidence Regarding Service of the Order to Show Cause. On January 28, 2022, the Respondent's wife filed a copy of her Power of Attorney as well as an updated Request for Hearing dated January 26, 2022. In the updated Request for Hearing, Respondent's wife represented that although Respondent's Florida medical license was revoked, his DEA registration had been issued in Illinois, not Florida. Request for Hearing dated January 26, 2022, at 1. Respondent's wife also noted that Respondent holds three other state licenses and that his DEA registration record was ''impeccable.'' *Id.* On February 9, 2022, the Government filed its Notice of Filing of Evidence Regarding Proof of Service.[3]

[1] Because the Request for Hearing was emailed after 5:00 p.m. on January 25, 2022, it was deemed filed on January 26, 2022. Order Regarding Request for Hearing Attachments and Filing Procedures, at 1.

[2] In the Request for Hearing email, Respondent's wife represented that she had included her Power of Attorney in the form of fourteen file attachments, but the ALJ was unable to access the attachments. Order Regarding Request for Hearing Attachments and Filing Procedures, at 1; *see also* Request for Hearing.

[3] The Government's Notice of Filing of Evidence Regarding Proof of Service showed that Respondent was not served with the OSC until January 4, 2022, thus, Respondent's Request for Hearing was timely filed. Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter,

On February 9, 2022, the ALJ issued an Order Directing the Government to File Evidence Regarding its Lack of State Authority Allegation and Briefing Schedule. The Government timely filed its Notice of Filing of Evidence and Motion for Summary Disposition (hereinafter, Motion for Summary Disposition) on February 25, 2022. RD, at 2. In its Motion, the Government represented that Respondent lacks authority to handle controlled substances in Florida, the state in which he is registered with the DEA, and argued that, therefore, Respondent's DEA registration must be revoked. Motion for Summary Disposition, at 1–6. Respondent failed to timely file a response to the Government's Motion and on March 25, 2022, the ALJ issued an Order Directing Compliance to Respondent. RD, at 2. By email dated March 21, 2022,[4] Respondent's wife requested additional time to file a response and on the same day, the ALJ issued an Order Regarding Respondent's Extension Request extending the deadline. *Id.* On March 24, 2022, Respondent filed a Response to the Motion for Summary Disposition (hereinafter, Response). In his Response dated March 22, 2022, Respondent indicated that he missed the original deadline because he is incarcerated and it had been an oversight by his wife. Response, at 1. Respondent also stated that as of March 14, 2022, an updated DEA registration was sent to his home address, and that prior to the update, the registration was listed as being issued in Illinois. *Id.* at 2. Finally, Respondent reiterated that he had medical licenses in other states and noted that his underlying conviction was being appealed. *Id.*

On March 29, 2022, the ALJ granted the Government's Motion for Summary Disposition, finding that ''[t]here is no genuine issue of material fact in this case.'' RD, at 8. The ALJ recommended that Respondent's registration be revoked and that any application to renew or modify his registration, and any applications for any other DEA registrations in Florida, be denied because Respondent lacks state authority to handle control substances. *Id.* at 9. By letter dated April 25, 2022, the ALJ certified and transmitted the record to me for final Agency action and noted that neither party filed exceptions.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. FG2055158 at the registered address of 7258 SE 2nd Ave., Ocala, FL 34480. Motion for Summary Disposition, Attachment (hereinafter, Gov. Att.) 2, Exhibit (hereinafter, Ex.) 1 (Certificate of Registration). Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent's registration expires on September 30, 2022. *Id.* On April 30, 2021, DEA granted Respondent's request to change his registered address from Illinois to Florida. Gov. Att. 2.

The Status of Respondent's State License

On December 11, 2020, the State of Florida Department of Health (hereinafter, the Department) issued an Administrative Complaint against Respondent alleging that on or about February 27, 2020, the Florida Agency for Health Care Administration terminated Respondent's participation in the state Medicaid program and therefore, Respondent was subject to Department discipline. Gov. Att. 1, Ex. 1, at 5–7. On September 3, 2021, the State of Florida Board of Medicine (hereinafter, the Board) issued a Final Order revoking Respondent's state medical license after finding that Respondent had been convicted of six counts of Health Care Fraud and that Respondent had been sanctioned and terminated with cause from participating in the Florida Medicaid program. *Id.* at 1–3.

According to Florida's online records, of which I take official notice, Respondent's medical license is still revoked.[5] Florida Department of Health License Verification, *https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders* (last visited date of signature of this Order). Accordingly, I find that Respondent is not currently licensed to practice medicine in Florida, the state in which he is registered with the DEA.[6]

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C.

Recommended Decision or RD); *see also* Government's Notice of Filing of Evidence Regarding Proof of Service.

[4] Because the request was emailed after 5:00 p.m. on March 21, 2022, it was deemed filed on March 22, 2022. *Id.* at 3.

[5] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[6] Respondent argues that his DEA registration was issued in Illinois, not Florida, however, the record evidence shows that his DEA registration currently has a registered address in Florida. *See* Gov. Att. 2, Ex. 1 (Certificate of Registration). Further, even if Respondent's registered address were in Illinois, according to Illinois online records, of which I take official notice, Respondent's Illinois medical license is indefinitely suspended and Respondent's Illinois controlled substances registration is expired. Illinois Department of Financial and Professional Regulation License Lookup, *https://online-dfpr.micropact.com/lookup/licenselookup.aspx* (last visited date of signature of this Order). Thus, Respondent is not currently licensed to engage in the practice of medicine nor registered to dispense controlled substances in Illinois. Respondent argues that he has other state medical licenses that could be used as a basis for DEA registration, however, as the ALJ stated, the argument fails ''because Respondent provides no evidence to support this assertion; indeed, he does not even identify those other states.'' RD, at 8. Moreover, ''even if [Respondent] does have other valid state medical licenses, his DEA registration is based on his Florida medical license, and that has undeniably been revoked.'' *Id.*

802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR at 27617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that in this case, Respondent's underlying conviction is being appealed. What is consequential is my finding that Respondent is no longer currently authorized to dispense controlled substances in Florida, the state in which he is registered with the DEA.

According to Florida statute, ''A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance.'' Fla. Stat. Ann. 893.05(1)(a) (West 2022). Further, a ''practitioner'' as defined by Florida statute includes ''a physician licensed under chapter 458.[7]'' *Id.* at § 893.02(23).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Florida. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Florida. Thus, because Respondent lacks authority to practice medicine in Florida and, therefore, is not authorized to handle controlled substances in Florida, Respondent is not eligible to maintain a DEA registration. Accordingly, I will order that Respondent's DEA registration be revoked.

[7] Chapter 458 regulates medical practice.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FG2055158 issued to Omar Garcia, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Omar Garcia, M.D. to renew or modify this registration, as well as any other pending application of Omar Garcia, M.D. for additional registration in Florida. This Order is effective June 27, 2022.

Anne Milgram,

Administrator.

[FR Doc. 2022–11507 Filed 5–26–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On May 23, 2022, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Montana entitled *United States and the State of Delaware* v. *Burlington Northern Santa Fe Railway Co. and Montana Rail Link, Inc.,* Civil Action No. 6:22–cv–00035–SEH.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The complaint alleges that the defendants are liable in connection with the releases of hazardous substances at the East Helena Superfund Site (the ''Site) in East Helena, Montana. Under the consent decree, the defendants will expend an estimated $852,200 to remediate an active railyard within the Site boundaries. They will also reimburse EPA's costs of overseeing their work. In return, the United States and Delaware agree not to sue the defendants under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Burlington Northern Santa Fe Railway Co. and Montana Rail Link, Inc.,* D.J. Ref. No. 90–11–3–08633/7. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree without the exhibits upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–11489 Filed 5–26–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by July 26, 2022.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Ellen Wright by telephone at (202) 693–9995 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Wright.Ellen.D@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4520, 200 Constitution Avenue NW, Washington, DC 20210; by email: *Wright.Ellen.D@dol.gov*; or by fax at (202) 693–3975.

FOR FURTHER INFORMATION CONTACT: Lawrence Burns by telephone at (202) 693–3141 (this is not a toll-free number) or by email at *Burns.Lawrence@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure 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 can be properly assessed.

ETA is soliciting comments concerning the collection of data in the ETA 9048, Worker Profiling and Reemployment Services Activity Report, and the ETA 9049, Worker Profiling and Reemployment Services Outcomes Report. Authorization for both reports expires on December 31, 2022. The Worker Profiling and Reemployment Services (WPRS) program, mandated by the Unemployment Compensation Amendments of 1993, Public Law 103–152, identifies and ranks unemployment insurance (UI) claimants by their potential for exhausting benefits before returning to work and refers these claimants to appropriate reemployment services.

WPRS is a required UI activity that each state may operate as a standalone program or integrated within the state's Reemployment Services and Eligibility Assessments (RESEA) program, which is a voluntary reemployment program authorized by Section 306 of the Social Security Act (SSA). Specifically, states participating in the RESEA program may opt to integrate WPRS into the RESEA participant selection process. States that fully integrate WPRS into their RESEA program and provide RESEA services statewide are exempt from WPRS reporting because WPRS activities are fully reflected in RESEA quarterly report (ETA 9128 and ETA 9129). States that opt not to include WPRS into their RESEA program design or only offer RESEA in limited locations must continue to submit the ETA 9048 and ETA 9049. Based on analysis of historical data and state's planned RESEA activities, ETA projects that up to 15 states per year will continue to report WPRS activities using the ETA 9048 and ETA 9049, and burden estimates have been revised to reflect this projected level of activity. Additional information about the integration of WPRS into RESEA is available in Unemployment Insurance Program Letter No. 10–22 and Training and Employment Guidance Letter No. 05–21, ''Fiscal Year (FY) 2022 Funding Allotments and Operating Guidance for Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grants.''

The ETA 9048 and ETA 9049 reports are the only means of tracking the activities in the WPRS program in instances where states have not volunteered to participate in RESEA, opted to not integrate WPRS into their RESEA program design, or continue provide WPRS services in areas not currently served by RESEA. The ETA 9048 report describes the number of claimants at various points in the WPRS system from initial profiling through the completion of specific reemployment services. The ETA 9049 describes the reemployment experience of profiled claimants selected for referral to services by examining the state's existing wage record files to capture which quarter the individuals who received reemployment services became employed, what wages they earned, and whether the individuals receiving services changed industries. Section 303(a)(6), SSA, authorizes this information collection.

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 it is approved by OMB under the PRA 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 Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB 1205–0353.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes.

Forms: ETA 9048, ETA 9049.

OMB Control Number: 1205–0353.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 300,427.

Frequency: Varies.

Total Estimated Annual Responses: 600,945.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 781,102.5.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–11417 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Training Plans, New Miner Training, Newly-Hired Experienced Miner Training

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting Mine Safety and Health Administration (MSHA)-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 June 27, 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: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 801 *et seq.,* recognizes that education and training is an important element of federal efforts to make the nation's mines safe. These standards are intended to ensure that miners will be effectively trained in matters affecting their health and safety, with the goal of reducing the occurrence of injury and illness in the nation's mines. Title 30 CFR 46.3 requires written training plans for training and retraining miners engaged in shell dredging or employed at sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mines. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 21, 2022 (87 FR 3357).

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–MSHA.

Title of Collection: Training Plans, New Miner Training, Newly-hired Experienced Miner Training.

OMB Control Number: 1219–0131.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 10,996.

Total Estimated Number of Responses: 1,135,343.

Total Estimated Annual Time Burden: 155,965 hours.

Total Estimated Annual Other Costs Burden: $348,531.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–11382 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Explosive Materials and Blasting Units (Pertains Only to Underground Metal and Category III Nonmetal Mines Deemed to be Gassy)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-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 June 27, 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: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Under 30 CFR parts 7 and 15, MSHA evaluates and approves explosive materials and blasting units as permissible for use in mines. However, some underground metal and nonmetal Category III mines (gassy mines) use non-approved explosive materials or blasting units. Section 57.22606(a) outlines the

procedures for mine operators to follow when using non-approved explosive materials and blasting units.

The standard requires mine operators of underground metal and nonmetal Category III gassy mines to notify MSHA in writing prior to their use of non-approved explosive materials and blasting units. MSHA then evaluates the non-approved explosive materials and blasting units to determine whether they are safe for use in a potentially gassy environment. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 21, 2022 (87 FR 3356).

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–MSHA.

Title of Collection: Explosive Materials and Blasting Units (pertains only to underground metal and Category III nonmetal mines deemed to be gassy)

OMB Control Number: 1219–0095.

Affected Public: Business or other for-profit.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $6.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–11415 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Agreement Approval Process for Use of Functional Affirmative Action Programs

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Federal Contract Compliance Programs (OFCCP)-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 June 27, 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: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The regulations implementing Executive Order 11246 permit Federal supply and service contractors to develop affirmative action programs (AAPs) that are based on business functions or business units rather than AAPs based on establishments. Functional affirmative action programs (FAAPs) are designed to provide contractors with the option of creating AAPs that better fit their business needs. To develop and implement a FAAP, Federal contractors must receive written approval from the Director of OFCCP. This Information Collection Request addresses the collection of information associated with the process for obtaining, modifying, updating, and renewing an agreement that allows contractors to develop and use FAAPs. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 9, 2022 (87 FR 7501).

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–OFCCP.

Title of Collection: Agreement Approval Process for Use of Functional Affirmative Action Programs.

OMB Control Number: 1250–0006.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 86.

Total Estimated Number of Responses: 86.

Total Estimated Annual Time Burden: 1045 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–11383 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TUV SUD America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV SUD America, Inc. (TUVAM) for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 13, 2022.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. **Please note:** While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and OSHA docket number for this **Federal Register** notice (OSHA–2007–0043). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before June 13, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

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, U.S. Department of Labor by phone (202) 693–1999 or 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, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that TUV SUD America, Inc. (TUVAM) is applying for expansion of the current recognition as a NRTL. TUVAM requests the addition of three test standards to their NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 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 its preliminary finding. 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, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at: *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM currently has seven facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: TUV SUD America, Inc., 401 Edgewater Place, Suite 500, Wakefield, MA 01880. A complete list of TUVAM's scope of recognition (including sites recognized by OSHA) is available at: *https://www.osha.gov/dts/otpca/nrtl/tuvam.html.*

II. General Background on the Application

TUVAM submitted an application, dated July 12, 2021 (OSHA–2007–0043–0042), to expand their recognition to include five additional test standards. This application was amended on February 12, 2022, to remove two standards from the original application. (OSHA–2007–0043–0041). OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in TUVAM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 583	Electric-Battery-Powered Industrial Trucks.
UL 104	Elevator Door Locking Devices and Contacts.
UL 61010–031	Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held and Hand-Manipulated Probe Assemblies for Electrical Measurement and Test.

III. Preliminary Findings on the Application

TUVAM submitted an acceptable application for expansion of the NRTL scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that TUVAM can meet the requirements prescribed by 29 CFR 1910.7 for expanding their recognition to include the addition of these three test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVAM's application. OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether TUVAM meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2007–0043 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant TUVAM's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 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 May 19, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–11419 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV Rheinland of North America, Inc., for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 13, 2022.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2006–0042, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2350. Deliveries, (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET. **Please note:** While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2007–0042) for the Information Collection Request (ICR). OSHA places all comments, including personal information in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal

information such as social security numbers and birthdates.

For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Extension of comment period: Submit requests for an extension of the comment period on or before June 13, 2022 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

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, U.S. Department of Labor, 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, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that TUV Rheinland of North America, Inc. (TUVRNA), is applying for an expansion of current recognition as a NRTL. TUVRNA requests the addition of three test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 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. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition, as well as for an expansion or renewal of 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. 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, including TUVRNA, which details that NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA currently has eight facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: TUV Rheinland of North America, Inc., 12 Commerce Road, Newtown, Connecticut 06470. A complete list of TUVRNA sites recognized by OSHA is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/tuv.*

II. General Background on the Application

TUVRNA submitted an application, dated May 3, 2021 (OSHA–2007–0042–0057), to expand recognition as a NRTL to include three additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 shows the test standards found in TUVRNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1703	Flat-Plate Photovoltaic Modules and Panels.
UL 61730–1	Photovoltaic (PV) Module Safety Qualification—Part 1: Requirements for Construction.
UL 61730–2	Photovoltaic (PV) Module Safety Qualification—Part 2: Requirements for Testing.

III. Preliminary Finding on the Application

TUVRNA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation preliminarily indicates that TUVRNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of the three test standards shown in Table 1, above, for NRTL testing and certification. This preliminary finding does not constitute an interim or temporary approval of TUVRNA's application.

OSHA seeks public comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2007–0042 (for further information, see the ''Docket'' heading in the section of this notice titled **ADDRESSES**).

The additional materials must clearly identify your electronic comments by your name, date, and the docket number

so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant TUVRNA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, 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 May 19, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–11418 Filed 5–26–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) 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.

DATES: Comments should be received on or before June 27, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–NEW.

Type of Review: New collection.

Title: NCUA Template: Large Credit Union Data Collection.

Abstract: The NCUA issued regulation under 12 CFR part 702, subpart E, ''Capital Planning and Stress Testing'' regarding capital planning and stress testing for federally insured credit unions with $10 billion or more in assets and supervised by Office of National Examinations and Supervision (covered credit unions). The rule authorizes covered credit unions to conduct stress tests in accordance with the NCUA's requirements.

Section 702.506 provides for the necessary requirements for those credit unions to conduct supervisory stress tests. The ''NCUA Template: Large Credit Union Data Collection'' was developed for the credit unions to provide NCUA with the specific data needed to evaluate their internal assessments of capital adequacy and to ensure their capital resources are sufficient.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 3,447.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National Credit Union Administration, on May 24, 2022.

Dated: May 24, 2022.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2022–11504 Filed 5–26–22; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Request: State Library Administrative Agency (SLAA) Survey FY 2022–FY 2024

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), 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. This pre-clearance consultation 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 purpose of this Notice is to solicit comments concerning the modifications to and continuance of the State Library Administrative Agency (SLAA) Surveys for Fiscal Years 2022 and 2024. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 26, 2022.

ADDRESSES: Send comments to: Connie Bodner, Ph.D., Director of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached

by telephone at 202–653–4636, or by email at *cbodner@imls.gov*. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Marisa Pelczar, Ph.D., Program Analyst, Office of Research and Evaluation, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Pelczar can be reached by telephone: 202–653–4647, or by email at *mpelczar@imls.gov*. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency 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 methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit *www.imls.gov*.

II. Current Actions

Pursuant to Public Law 107–279, this SLAA Survey collects biennial descriptive data on the universe of SLAAs in the United States. SLAAs are the official agencies of each state charged by state law with the extension and development of public library services throughout the state (20 U.S.C. 9122). The purpose of this survey is to provide state and federal policymakers with information about SLAAs, including their governance, allied operations, developmental services to libraries and library systems, support of electronic information networks and resources, number and types of outlets, and direct services to the public. Because the FY 2022 collection will not begin until early 2023, we are carrying over the documentation and estimated burden associated with the FY 2020 data. The SLAA Survey has been conducted by the Institute of Museum and Library Services under the clearance number 3137–0072, which expires October 31, 2023. This action is to request a new three-year approval.

Agency: Institute of Museum and Library Services.

Title: State Library Administrative Agencies Survey, FY 2022 and FY 2024.

OMB Number: 3137–0072.

Agency Number: 3137.

Respondents/Affected Public: Federal, State, and local governments; State Library Administrative Agencies.

Total Estimated Number of Respondents: 51.

Frequency of Response: Biennially.

Estimated Average Burden Hours per Respondent: 25 hours.

Estimated Total Burden Hours: 1,285.

Total Annualized capital/startup costs: n/a.

Total Annual Costs: $37,811.

Total Annual Federal Costs: $307,516.

Public Comments Invited: Comments submitted in response to this Notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: May 23, 2022.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2022–11402 Filed 5–26–22; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0102]

Information Collection: NRC Form 655, "EEO Counselor's Report"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a proposed collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 655, ''EEO Counselor's Report.''

DATES: Submit comments by June 27, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://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: David C. Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0102 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–2021–0102.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML22123A152. The supporting statement is available in ADAMS under Accession No. ML22123A145.
- *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://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.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a proposed collection of information to OMB for review entitled NRC Form 655, ''EEO Counselor's Report.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 11, 2022, 87 FR 8058.

1. *The title of the information collection:* NRC Form 655, ''EEO Counselor's Report.''

2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.

3. *Type of submission:* New.

4. *The form number, if applicable:* NRC Form 655.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Aggrieved persons who believe they have been discriminated against in employment on the basis of race, color, religion, sex, national origin, age, disability, or genetic information.

7. *The estimated number of annual responses:* 30.

8. *The estimated number of annual respondents:* 30.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 30 hours.

10. *Abstract:* As set forth under 29 CFR 1614, the Equal Employment Opportunity (EEO) complaint process prescribes that when an aggrieved individual believes that they have been discriminated against on the basis of their race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age, disability, genetic information (including family medical history), marital status, parental status, political affiliation, military service, and reprisal and seeks EEO counseling, the assigned EEO Counselor will conduct the pre-complaint (Informal) with the intentions of resolving the complaint within the Agency. At the conclusion of pre-complaint (Informal) process and if resolution was unsuccessful, the EEO Counselor during the final interview with the aggrieved person must discuss what occurred during the counseling process and provide the aggrieved with information to move the matter forward. Pursuant to 29 CFR 1614.105(c), if the aggrieved individual decides to file a Formal complaint (*i.e.,* NRC Form 646), the EEO Counselor must submit a written report (*i.e.,* EEO Counselors Report) within fifteen (15) calendar days to the Office of Small Business and Civil Rights Director or designated official that will contain relevant information about the aggrieved individual, jurisdiction, claims, bases, Responding Management Officials, witnesses, requested remedies, and the EEO Counselor's checklist. The NRC Form 655, ''EEO Counselor's Report'' is completed by an EEO Counselor during this consultation, which must be conducted within 45 days of the date of the matter alleged to be discriminatory or, in the case of personnel action, within 45 days of the effective date of the action. Once the form is completed, an authorized NRC representative will place the completed NRC Form 646 in a secure folder created specifically for the aggrieved individual within an automated tracking system.

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–11433 Filed 5–26–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0068]

Information Collection: NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License''

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License.''

DATES: Submit comments by July 26, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission 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–2022–0068. 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 individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David C. Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0068 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–2022–0068. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2022–0068 on this website.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML22074A287. The supporting statement is available in ADAMS under Accession No. ML22074A286.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0068 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License.''
2. *OMB approval number:* 3150–0031.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* 244.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Persons who receive, acquire, possess, or use depleted uranium.
7. *The estimated number of annual responses:* 20.6.
8. *The estimated number of annual respondents:* 20.6.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 11.7 (8.3 reporting + 1.4 recordkeeping + 2 third-party disclosure).
10. *Abstract:* The NRC regulations in Part 40 of title 10 of the *Code of Federal Regulations,* establishes requirements for the receipt, possession, use and transfer of radioactive source and byproduct materials. Section 40.25 established a general license authorizing the use of depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device. The NRC Form 244 is used to report the receipt and transfer of depleted uranium, as required by § 40.25. The registration information required by the NRC Form 244 enables the NRC to make a determination on whether the possession, use, or transfer of depleted uranium source and byproduct material is in conformance with the NRC's regulations for the protection of public health and safety. General licensees can also use NRC Form 244 to update any of the information contained in the form, once the form is authorized by the NRC.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–11435 Filed 5–26–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7005; NRC–2022–0093]

Waste Control Specialists LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) in support of the NRC's consideration of

a request from Waste Control Specialists LLC (WCS) to continue to store certain transuranic waste, which originated from the Los Alamos National Laboratory (LANL), without an NRC license under the terms of a 2014 Order. The 2014 Order exempted WCS from the NRC's regulations concerning special nuclear material (SNM). The current action is in response to a request by WCS dated March 18, 2022, to extend the possession time to temporarily store certain waste at specific locations at the WCS Site until December 31, 2024.

DATES: The EA and FONSI referenced in this document are available on May 27, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0093 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0093. 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 individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Harry Felsher, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6559, email: *Harry.Felsher@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering modifying a previously issued exemption order condition that would allow Waste Control Specialists LLC (WCS) to continue storing certain transuranic waste, which originated from the Los Alamos National Laboratory (LANL), without an NRC license for approximately another two years at its Andrews County, Texas site. WCS stores the transuranic waste at issue under the terms of the 2014 Order. The 2014 Order includes certain conditions that the NRC staff has modified over time. Based on the results of the EA that follows, the NRC is issuing a FONSI and, therefore, does not need to prepare an environmental impact statement.

WCS operates a facility in Andrews County, Texas (the WCS Site) that is licensed to process and store certain types of radioactive material contained in low-level waste (LLW) and mixed waste. The WCS Site is also licensed to dispose of certain radioactive, hazardous, and toxic waste. Under an agreement authorized by the Atomic Energy Act of 1954, as amended, a State can assume regulatory authority over radioactive material. In 1963, Texas entered into such an agreement and assumed regulatory authority over source material, byproduct material, and SNM under critical mass. The WCS Site is licensed by the Texas Commission on Environmental Quality (TCEQ) for possession, treatment, and storage of radioactive waste and disposal of LLW under Radioactive Materials License (RML) R04100.

Section 70.3 of title 10 of the *Code of Federal Regulations* (10 CFR) requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain a license pursuant to the requirements of 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities. However, pursuant to 10 CFR 70.17(a), ''the Commission may . . . grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.''

On September 25, 2000, WCS first requested an exemption from the licensing requirements in 10 CFR part 70. On November 21, 2001, the NRC issued an order to WCS (2001 Order) granting an exemption to WCS from certain NRC regulations and permitting WCS, under specified conditions, to possess waste containing SNM in greater quantities than specified in 10 CFR part 150, at the WCS storage and treatment facility on the WCS Site in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. The 2001 Order was published in the **Federal Register** on November 15, 2001. The NRC issued superseding Orders to WCS in 2004 (*i.e.,* modified list of reagents) and 2009 (*i.e.,* modified sampling requirements) that modified the conditions in the 2001 Order.

On February 14, 2014, a radiation release event occurred at the U.S. Department of Energy (DOE) Waste Isolation Pilot Plant (WIPP) Facility (WIPP incident). In response, the DOE suspended operations at the WIPP Facility. In April 2014, WCS began receiving some specific waste from DOE that both WCS and DOE understood to meet both the U.S. Department of Transportation (DOT) shipping requirements and the conditions in the 2009 Order. WCS began storing that waste at the Treatment, Storage, and Disposal Facility (TSDF), identified as the storage and processing facility in RML R04100, WCS' TCEQ-issued license. The waste was DOE transuranic waste that originated at the LANL that was destined to be disposed of at the DOE WIPP Facility (*i.e.,* ''LANL Waste''). In June 2014, WCS received information from DOE that some of the LANL Waste being temporarily stored at the TSDF may be similar to the waste that might be the cause of the WIPP Incident. In response, WCS moved some of the LANL Waste from the TSDF to the Federal Waste Facility (FWF) disposal cell for temporary storage.

By letter dated July 18, 2014, WCS requested an exemption from the NRC's regulations to possess SNM in excess of the critical mass limits specified in 10 CFR 150.11 while temporarily storing some LANL Waste in the FWF disposal cell. The NRC issued a new order to WCS on December 3, 2014 (2014 Order) that superseded the 2009 Order. The 2014 Order was published in the **Federal Register** on December 11, 2014. The 2014 Order added new conditions, primarily related to the temporary storage of the LANL Waste both at the TSDF and in the FWF disposal cell. The State of Texas incorporated the 2014 Order Conditions into RML R04100.

By letters dated March 28, 2016, August 30, 2018, and August 24, 2020, WCS requested the modification of Condition 8.B.4 of the 2014 Order to

extend the timeframe for temporarily allowing storage of the LANL Waste at the WCS Site from ''two years'' to ''until December 23, 2018,'' ''until December 23, 2020,'' and ''until December 23, 2022.'' By letters dated September 23, 2016, December 19, 2018, and December 7, 2020, the NRC approved modifications of the 2014 Order Condition 8.B.4, extending WCS' authorization to store the LANL Waste at the WCS Site without a license under 10 CFR part 70 to ''until December 23, 2018,'' ''until December 23, 2020,'' and until ''December 23, 2020'' by citing the closed status of operations at the WIPP Facility in 2016 and the safe temporary storage status of the LANL Waste at the TSDF and in the FWF disposal cell in 2016, 2018, and 2020.

By letter dated March 18, 2022, WCS requested that the effectiveness of its exemption from NRC requirements in 10 CFR part 70 be extended with the modification of Condition 8.B.4 of the 2014 Order to extend the timeframe for temporarily allowing storage of the LANL Waste at the WCS Site to ''until December 31, 2024.'' That proposal is the subject of this EA.

II. Environmental Assessment

Description of the Proposed Action

The proposed action is the WCS request to modify the 2014 Order Condition 8.B.4 to allow WCS to continue to store the LANL Waste at specific locations at the WCS Site until December 31, 2024, without an NRC license.

Need for the Proposed Action

WCS is making this request to continue to store the LANL Waste while the DOE-led Interagency Project Team (including WCS, DOE, U.S. Environmental Protection Agency, NRC, the State of Texas, and the State of New Mexico) works to recommend a path forward for disposition of the LANL Waste. While the WIPP Facility has resumed operations, some of the LANL Waste at the WCS Site cannot be shipped off the WCS Site at this time because it does not meet DOT shipping requirements. WCS has indicated that it will not be able to ship the LANL Waste to another appropriate location by the timeframe specified in the 2014 Order Condition 8.B.4, as modified by the NRC letter dated December 7, 2020. The purpose of this EA is to assess the potential environmental impacts of the WCS request to modify the 2014 Order Condition 8.B.4 to allow WCS to store the LANL Waste at specific locations at the WCS Site until December 31, 2024. This EA does not approve or deny the requested action.

Environmental Impacts of the Proposed Action

The NRC does not expect changes in radiation hazards to workers or to the environment. WCS will continue to be required to ensure that the LANL Waste in both the FWF disposal cell and the TSDF remain stored safely and securely and notify the NRC of any events as appropriate, as set out in the 2014 Order. No changes to its handling or associated hazards would occur as a result of granting the requested change. Other environmental impacts would be the same as evaluated in the EA that supported the 2014 Order, as applicable to the activities associated with the continued safe storage of the LANL Waste.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff could deny the WCS request and, therefore, not issue a modification to the Order Condition 8.B.4 that would authorize continued storage of the LANL Waste at the WCS Site (*i.e.,* the ''no action'' alternative). Upon expiration of the timeframe in the 2014 Order Condition 8.B.4, as modified by the December 7, 2020, NRC letter to WCS, WCS would still be required to maintain the material safely. In addition, the NRC authorization of any change to the current storage of the LANL Waste at the WCS Site would still be required. As a result, under this alternative, there would be no environmental impacts different from the proposed action, although WCS would be required to secure a license or other regulatory authorization for the storage of the material or potentially be in violation of 10 CFR part 70 upon the expiration of the term in the 2014 Order Condition 8.B.4.

Thus, the ''no action'' alternative would not result in changes to the environmental impacts evaluated in the NRC's prior EAs that supported the 2014 Order or the previous NRC orders. Those prior EAs concluded that there would be no significant radiological or non-radiological environmental impacts associated with the storage of SNM at the WCS Site, consistent with the conditions in those NRC orders.

Agencies and Persons Consulted

On May 12, 2022, the staff consulted with TCEQ by providing a draft of the EA for review and comment. By email dated May 19, 2022, TCEQ provided comments on and recommended corrections to the draft of the EA. The NRC staff modified the EA to appropriately address the TCEQ comments and recommended corrections.

The proposed action does not involve the development or disturbance of additional land. Hence, the NRC has determined that the proposed action will not affect listed endangered or threatened species or their critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. Likewise, the NRC staff has determined that the proposed action does not have the potential to adversely affect cultural resources because no ground disturbing activities are associated with the proposed action. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC has reviewed the WCS March 18, 2022, request to supplement the 2014 Order again to extend the possession time of the LANL Waste at specific locations at the WCS Site. The NRC has found that effluent releases and potential radiological doses to the public are not anticipated to change as a result of this action and that occupational exposures are expected to remain within regulatory limits and as low as reasonably achievable. On the basis of this EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

IV. Availability of Documents

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

Document	ADAMS Accession No./ **Federal Register** citation
2022 WCS Request to Modify Condition 8.B.4 of 2014 NRC Order, dated March 18, 2022	ML22081A181
2022 TCEQ Comments and Recommended Corrections to 2022 NRC Draft of the Environmental Assessment, dated May 19, 2022.	ML22139A189
2020 NRC Letter of Modification of Condition 8.B.4 of 2014 NRC Order, dated December 7, 2020	ML20252A182
Environmental Assessment and Finding of No Significant Impact for 2014 NRC Order	79 FR 65999
2014 NRC Order	79 FR 73647
2020 WCS Request to Modify Condition 8.B.4 of 2014 NRC Order, dated August 24, 2020	ML20237F462
2018 NRC Letter of Modification of Condition 8.B.4 of 2014 NRC Order, dated December 19, 2018	ML18269A318
2018 WCS Request to Modify Condition 8.B.4 of 2014 NRC Order, dated August 30, 2018	ML18250A289
2016 NRC Letter of Modification of Condition 8.B.4 of 2014 NRC Order, dated September 23, 2016	ML16097A265
2016 WCS Request to Modify Condition 8.B.4 of 2014 NRC Order, dated March 28, 2016	ML16095A361
Environmental Assessment and Final Finding of No Significant Impact for 2009 NRC Order	74 FR 52981
2009 NRC Order	74 FR 55071
Environmental Assessment and Finding of No Significant Impact for 2004 NRC Order	69 FR 61697
2004 NRC Order	69 FR 65468
Environmental Assessment and Finding of No Significant Impact for 2001 NRC Order	66 FR 56358
2001 NRC Order	66 FR 57489
2000 WCS Request for NRC Order, dated September 25, 2000	ML003759584

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

Jane E. Marshall,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–11430 Filed 5–26–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0098]

Information Collection: NRC Form 646, "Formal Discrimination Complaint"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a proposed collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 646, ''Formal Discrimination Complaint.''

DATES: Submit comments by June 27, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://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: David C. Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0098 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–2021–0098.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML22123A107. The supporting statement is available in ADAMS under Accession No. ML22123A103.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://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.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a proposed collection of information to OMB for review entitled NRC Form 646, ''Formal Discrimination Complaint.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 11, 2022, 87 FR 8060.

1. *The title of the information collection:* NRC Form 646, ''Formal Discrimination Complaint.''

2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.

3. *Type of submission:* New.

4. *The form number, if applicable:* NRC Form 646.

5. *How often the collection is required or requested:* On occasion. The NRC Form 646 is submitted at the time an aggrieved individual decides to file a formal complaint of discrimination.

6. *Who will be required or asked to respond:* Employees, former employees, or applicants for employment with the NRC, who believe that they have been subjected to discrimination based on race, color, national origin, religion, gender, age, disability, reprisal, or sexual orientation.

7. *The estimated number of annual responses:* 30.

8. *The estimated number of annual respondents:* 30.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 30 hours.

10. *Abstract:* As set forth under 29 CFR 1614, the Equal Employment Opportunity (EEO) complaint process prescribes that when an aggrieved individual believes that they have been discriminated against on the basis of their race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age, disability, genetic information (including family medical history), marital status, parental status, political affiliation, military service, and reprisal and seeks EEO counseling, the assigned EEO Counselor will conduct the pre-complaint (Informal) with the intentions of resolving the complaint within the Agency. At the conclusion of pre-complaint (Informal) process and if resolution was unsuccessful, the EEO Counselor during the final interview with the aggrieved person must discuss what occurred during the counseling process and provide the aggrieved with information to move the matter forward. Pursuant to 29 CFR 1614.105(c), if the aggrieved individual decides to file a Formal complaint (*i.e.,* NRC Form 646), the EEO Counselor must submit a written report (*i.e.,* EEO Counselors Report) within fifteen (15) calendar days to the Office of Small Business and Civil Right Director or designated official that will contain relevant information about the aggrieved individual, jurisdiction, claims, bases, Responding Management Officials, witnesses, requested remedies, and the EEO Counselor's checklist. Once received by the NRC, an authorized NRC representative will place the completed NRC Form 646 in a secure folder created specifically for the aggrieved individual within an automated tracking system.

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–11434 Filed 5–26–22; 8:45 am]

BILLING CODE 7590–01–P

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

2021 Northwest Conservation and Electric Power Plan

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of final action.

SUMMARY: Pursuant to the Pacific Northwest Electric Power Planning and Conservation Act of 1980, the Council has formally reviewed and adopted the revised conservation and electric power plan, called the 2021 Northwest Power Plan.

ADDRESSES: The 2021 Northwest Power Plan is available for review on the Council's website at *https://www.nwcouncil.org/media/filer_public/4b/68/4b681860-f663-4728-987e-7f02cd09ef9c/2021powerplan_2022-3.pdf.* The supporting materials, which provide technical support and context for the elements of the power plan, are available at: *https://www.nwcouncil.org/2021powerplan_sitemap/.* The power plan web page, which includes links to the draft power plan, comments received on the draft power plan, and all other documents, resources, meeting materials, and more on the process to develop the 2021 Northwest Power Plan, may be found at *https://www.nwcouncil.org/2021-northwest-power-plan/.*

FOR FURTHER INFORMATION CONTACT: John Shurts, General Counsel, (503) 222–5161, *jshurts@nwcouncil.org.*

SUPPLEMENTARY INFORMATION: The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Northwest Power Act) requires the Council to adopt and periodically review and revise a regional power plan, the northwest conservation and electric power plan. The Council first adopted the power and conservation plan in 1983, with significant amendments or complete revisions adopted in 1986, 1991, 1998, 2004, 2010, and 2016. For the 2021 Northwest Power Plan, the Council formally began the review process in February 2019, and in September 2021 the Council released for public review and comment the draft power plan. During the comment period, the Council held four public hearings on the draft plan, all of them held virtually due to the limitations imposed by the Covid-19 pandemic restrictions, but with each denoted as the public hearing for one of the four states of the Council, consistent with the requirements of the Northwest Power Act. In addition, the Council engaged in consultations about the power and conservation plan with Bonneville Power Administration (Bonneville), Bonneville's utility customers, other utilities, various state, federal, tribal and local agencies and governments, public interest organizations, business and trade associations, and the public at large, and, accepted and considered substantial written and oral comments, with the Council receiving nearly 200 formal and informal written public comments on the draft plan. The Council's work on the 2021 Northwest Power Plan came in the middle of a transformation in the power system in the northwest and the western US as a whole, driven by policies and economic trends that are pushing out fossil-fueled generation, adding renewable resources

with different power system characteristics, and potentially electrifying significant sectors of the economy. The Council grappled throughout the power plan process, including through consideration of the comments received on the draft, with a host of issues arising out of that transformation.

At the Council's regularly scheduled public meeting in February 2022, held in Portland, Oregon via webinar, the Council formally adopted the 2021 Northwest Power Plan. The revised power and conservation plan meets the requirements of the Northwest Power Act, which specifies the components the power plan is to have, including an energy conservation program, a recommendation for research and development; a methodology for determining quantifiable environmental costs and benefits; a 20-year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations; and an analysis of reserve and reserve reliability requirements. The power and conservation plan also includes the Council's Columbia River Basin Fish and Wildlife Program, as amended pursuant to Section 4(h) under the Northwest Power Act prior to beginning this review of the power plan. The Council followed the adoption of the 2021 Northwest Power Plan with a decision at its regular monthly meeting in May 2022, in Whitefish, Montana, to approve a Statement of Basis and Purpose and Response to Comments to accompany the final plan.

(Authority: 16 U.S.C. 839 *et seq.*)

John Shurts,

General Counsel.

[FR Doc. 2022–11472 Filed 5–26–22; 8:45 am]

BILLING CODE P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: RI 20–126, Certification of Qualifying District of Columbia Service Under Section 1905 of Public Law 111–84 (OMB No. 3206–0268)

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the public and other federal agencies the opportunity to comment on an expiring information collection request (ICR), RI 20–126, Certification of Qualifying District of Columbia Service. (OMB No. 3206–0268).

DATES: Comments are encouraged and will be accepted until July 26, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation may be obtained by contacting the Retirement Services Publications Team, U.S. Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or you may obtain this information by emailing *Cyrus.Benson@opm.gov,* sending a fax to (202)-606–0910, or calling (202)–606–4808.

SUPPLEMENTARY INFORMATION: Form RI 20–126, ''Certification of Qualifying District of Columbia Service Under Section 1905 of Public Law 118–84,'' is used to certify that an employee performed certain service with the District of Columbia (DC) that qualifies under 5 U.S.C. 8332, note, for determining retirement eligibility. However, this service cannot be used in the computation of a Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS) retirement benefit.

As required by the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (codified at 44 U.S.C. chapter 35), and as amended by the Clinger-Cohen Act of 1994, Public Law 104–106, divs. D and E, 110 Stat. 642 (1996), OPM is soliciting comments for this collection of information (OMB No. 3206–0268). The Office of Management and Budget is particularly interested in comments that consider the following:

1. Whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Whether the quality, utility, and clarity of the information collected could be enhanced; and

4. Whether the burden of the collection of information could be minimized on those who are responsible for providing this information, 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).

Analysis

Agency: Retirement Services, Office of Personnel Management.

Title: Certification of Qualifying District of Columbia Service under Section 1905 of Public Law 111–84.

OMB Number: 3206–0268.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 1,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 500.

U.S. Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2022–11466 Filed 5–26–22; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94959; File No. SR–NYSEArca–2022–31]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend Rule 6.64P–O

May 23, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 20, 2022, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.64P–O (Auction Process). The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rule 6.64P–O regarding the automated process for both opening and reopening trading in a series on the Exchange on Pillar as set forth below.[4]

Current Pillar Auction Process

Rule 6.64P–O(d) sets forth the Auction Process.[5] Per Rule 6.64P–O(d)(1), once the Exchange receives the Auction Trigger for a series,[6] the Auction Process begins and the Exchange sends a Rotational Quote[7] to both OPRA and proprietary data feeds indicating that the Exchange is in the process of transitioning from a pre-open state to continuous trading for that series.

Per Rule 6.64P–O(d)(2), once a Rotational Quote has been sent, the Exchange conducts an Auction,[8] provided ''there is both a Legal Width Quote and, if applicable, Market Maker quotes with a non-zero offer in the series'' within the Opening Timer(s), per Rule 6.64P–O(d)(3).[9] The Exchange deems the Legal Width Quote requirement satisfied if the Calculated NBBO (described below) for the series is uncrossed, contains a non-zero offer, and has a spread that does not exceed a maximum differential that is determined by the Exchange on a class basis and announced by Trader Update.[10] The Calculated NBBO is comprised of the highest bid and lowest offer among all Market Maker quotes and the ABBO during the Auction Process.[11] A Calculated NBBO does not require both Market Maker quotes and ABBO to be present, and may be composed of Market Maker quotes only, of the ABBO only, or a combination thereof.

If the foregoing requirements are met (*i.e.,* per Rule 6.64P–O(d)(2)), the Exchange will conduct an Auction that will either result in a trade or in a quote depending on whether there is (or is not) Matched Volume[12] that can trade at or within the Auction Collars.[13] If there is Matched Volume that can trade at or within the Auction Collars, the Auction will result in a trade at the Indicative Match Price.[14] However, if there is no Matched Volume that can trade at or within the Auction Collars, the Auction will instead result in a quote and the Exchange transitions to continuous trading as set forth in Rule 6.64P–O(f).[15]

Finally, per Rule 6.64P–O(d)(4), unless otherwise specified by Trader Update, for the first ninety seconds of the Auction Process (inclusive of the thirty-second Opening MMQ Timer(s)), if there is no Legal Width Quote, the Exchange will not conduct an Auction, even if there is Matched Volume, *i.e.,* the series will not open. After the first ninety seconds of the Auction Process, if there is no Matched Volume and the Calculated NBBO is wider than the Legal Width Quote, is not crossed, and does not contain a zero offer, the Exchange will first cancel any Market Orders and MOO Orders and then transition the option series to continuous trading per Rule 6.64P–O(f).[16] Thus, per Rule 6.64P–O(d)(4)(A), if after the first ninety seconds of the Auction Process there is Matched Volume but the other elements of this provision are satisfied, the series will not open and will remain unopened and the Exchange will not transition to continuous trading until the earlier of (i) a Legal Width Quote is established and an Auction can be conducted; (ii) the series can be opened as provided for in paragraph (d)(4)(A); (iii) the series is halted; or (iv) the end of Core Trading Hours.[17] In other words, a series that does not meet the requirements of Rule 6.64P–O(d)(4)(A) may be delayed in opening until one of the conditions set forth in Rule 6.64P–O(d)(4)(B) occur.

Proposed Change to Auction Process

The Exchange notes that waiting for market conditions to change before transitioning to continuous trading per the current Pillar Rule may result in missed execution opportunities for eligible interest submitted to the Exchange during the pre-open state. Moreover, this potential (indefinite) delay is inconsistent with the Exchange's intention of providing a timely and efficient Auction Process. As

[4] Rule 6.64P–O (the ''Pillar Rule'') covers the opening and reopening of option series, which process is identical on the Pillar trading platform. As such, the Exchange will simply refer to the ''opening'' of a series herein. The Exchange notes that because it has not yet migrated to the Pillar platform, Rule 6.64–O continues to apply to the opening process, which rule is not being modified by this filing. The Exchange has announced July 11, 2022 as the planned migration date for Pillar, as announced here: *https://www.nyse.com/trader-update/history#110000421498.*

[5] ''Auction Process'' refers to the process that begins when the Exchange receives an Auction Trigger for a series and ends when the Auction is conducted. *See* Rule 6.64P–O(a)(5).

[6] ''Auction Trigger'' refers to the information disseminated by the Primary Market in the underlying security that triggers the Auction Process for a series to begin. *See* Rule 6.64P–O(a)(7).

[7] ''Rotational Quote'' refers to the highest Market Maker bid and lowest Market Maker offer on the Exchange when the Auction Process begins and such a Rotational Quote will be updated (for price and size) during the Auction Process. *See* Rule 6.64P–O(a)(13).

[8] ''Auction'' refers to the opening or reopening of a series for trading either with or without a trade. *See* Rule 6.64P–O(a)(1).

[9] *See* Rule 6.64P–O(d)(2). Rule 6.64P–O(d)(3) specifies the parameters of the Opening MMQ Timers, which are designed to encourage (but not require) any Market Maker(s) assigned to an option series to submit Legal Width Quotes in connection with the Auction Process. The Exchange proposes a non-substantive change of ''30'' to ''thirty'' regarding the Opening MMQ Timer(s), which would add clarity and internal consistency to the to rule. *See* proposed Rule 6.64P–O(d)(3).

[10] *See* Rule 6.64P–O(a)(10)(A)–(C). The maximum spread differential for a given series or class of options may be modified by a Trading Official. *See* Rule 6.64P–O(a)(10)(C).

[11] *See* Rule 6.64P–O(a)(8) (defining Calculated NBBO).

[12] ''Matched Volume'' refers to the number of buy and sell contracts that can be matched at the Indicative Match Price, excluding IO Orders. *See* Rule 6.64P–O(a)(11). An Imbalance Offset Order (''IO Order'') is a Limit Order that is to be traded only in an Auction. *See* Rule 6.62P–O(c)(3).

[13] ''Auction Collar'' refers to the price collar thresholds for the Indicative Match Price for an Auction, with the upper Auction Collar being the offer of the Legal Width Quote and the lower Auction Collar being the bid of the Legal Width Quote, provided that if the bid of the Legal Width Quote is zero, the lower Auction Collar will be one MPV above zero for the series. And, if there is no Legal Width Quote, the Auction Collars will be published in the Auction Imbalance Information as zero. *See* Rule 6.64P–O(a)(2).

[14] *See* Rule 6.64P–O(d)(2)(A). ''Indicative Match Price'' refers to the price at which the maximum number of contracts can be traded in an Auction, including the non-displayed quantity of Reserve Orders and excluding IO Orders, subject to the Auction Collars. If there is no Legal Width Quote, the Indicative Match Price included in the Auction Imbalance Information will be calculated without Auction Collars. *See* Rule 6.64P–O(a)(9).

[15] *See* Rule 6.64P–O(d)(2)(B).

[16] *See* Rule 6.64P–O(d)(4)(A).

[17] *See* Rule 6.64P–O(d)(4)(B).

such, the Exchange proposes to modify Rule 6.64P–O. In short, the Exchange proposes that after the first ninety seconds of the Auction Process, the Exchange would conduct an Auction of marketable interest based on the spread of the then-current market conditions (*i.e.,* a Calculated NBBO that is uncrossed with a non-zero offer), provided that if the Calculated NBBO exceeds the Legal Width Quote differential established per Rule 6.64P–O(a)(10)(C) the Exchange would cancel any Market Orders or MOO Orders before conducting the Auction. As further proposed, marketable Limit Orders would trade in the Auction bound by the Calculated NBBO (*i.e.,* the highest bid and lowest offer among all Market Maker quotes and the ABBO), which executions may be earlier and more efficient than afforded under the current Pillar Rule. If there is no marketable interest after such cancelation, the Exchange would open on a quote.[18]

The Exchange believes the proposed change to the Pillar Rule (the details of which are described below) would promote competitive liquidity by allowing series to open at then-current market prices and would promote a fair and orderly opening process by improving the speed and efficiency of the Auction Process without impairing price discovery.

First, the Exchange proposes to codify existing rule text into the defined phrase the ''initial Auction Process time period'' in proposed Rule 6.64P–O(a)(5)(i). As proposed, the initial Auction Process time period would mean, ''unless otherwise specified by Trader Update, the first ninety seconds after the commencement of the Auction Process,'' which definition simply codifies (and relocates) identical text that appears in the preamble of both sentences in Rule 6.64P–O(d)(4).[19] The Exchange believes this proposed change is non-substantive and would streamline and add clarity to the existing rule.[20]

Next, the Exchange proposes to modify the definition of Legal Width Quote, including by leveraging the newly defined ''initial Auction Process time period.'' Rule 6.64P–O(a)(10)(C) provides that, to be deemed a Legal Width Quote, the spread of the Calculated NBBO may not exceed a maximum differential that is determined by the Exchange on a class basis and announced by Trader Update.[21]

As such, by rule, the Exchange has discretion to establish for each option class the maximum allowable spread of the Calculated NBBO within which the Exchange will conduct an Auction, provided that the other elements of a Legal Width Quote are met.[22] Nothing in Rule 6.64P–O(a)(10)(C) precludes the Exchange from establishing one set of Calculated NBBO spreads for the first ninety seconds of the Auction Process and a second (wider) set of Calculated NBBO spreads for any time after the first ninety seconds. However, in the interest of clarity and for the avoidance of potential confusion, the Exchange proposes to expand the definition of Legal Width Quote (rather than modify by Trader Update) in the Pillar Rule to provide that ''after the initial Auction Process time period, the Exchange will not impose limits for the maximum differential for the spread between the Calculated NBBO.'' [23]

The Exchange believes adopting Rule 6.64P–O(a)(10)(D) is consistent with its authority under the Pillar Rule to determine the maximum allowable Calculated NBBO spread to qualify a series as having a Legal Width Quote. However, this rule change would make clear that the Exchange would no longer impose these established spread limits (as announced by Trader Notice per Rule 6.64P–O(a)(10)(C)) after the initial Auction Process time period. The Exchange believes this rule change would add clarity and transparency to the Auction Process to the benefit of all market participants.[24] Because the Auction Process, including the Auction Collars, the presence of Matched Volume, and the determination of the Indicative Match Price, are dependent upon a Calculated NBBO that qualifies as a Legal Width Quote, the Exchange proposes that any Auction conducted consistent with proposed 6.64P–O(a)(10)(D) would follow the current Auction Process except as described below.[25]

The Exchange proposes to amend Rule 6.64P–O(d)(4) regarding the conduct of an Auction after the conclusion of the initial Auction Process time period (*i.e.,* after the first ninety seconds).[26] As noted herein, the Pillar functionality (per Rule 6.64P–O(d)(4)(A)) permits a series to open based on a ''wide'' Calculated NBBO (that is uncrossed with a non-zero offer), but only if there is no Matched Volume, which requirement may delay openings and result in missed execution opportunities.[27] To address this unintended potential delay, the Exchange proposes that after the initial Auction Process time period and consistent with proposed paragraph (a)(10)(D) of this Rule (which removes the limit on the maximum allowable Calculated NBBO spread), the Exchange would conduct an Auction regardless of Matched Volume as long as the Calculated NBBO is not crossed, and does not contain a zero offer.[28] This proposed functionality would allow marketable Limit Orders to execute in the Auction, which may result in certain option series opening earlier than are opened under the current rule and

[18] As described further below, consistent with Rule 6.64P–O(d)(2)(B), an Auction conducted per proposed Rule 6.64P–O(d)(4)(A) would open on a quote if there is no Matched Volume).

[19] *See* proposed Rule 6.64P–O(a)(5)(i). *See* Rule 6.64P–O(d)(4) (providing that ''[u]nless otherwise specified by Trader Update, for the first ninety seconds of the Auction Process . . . .'' and ''[n]inety seconds after the Auction Process begins:'').

[20] *See id. See* proposed Rule 6.64P–O(d)(4)(A) (replacing reference to the first ninety-seconds after the Auction Process with the proposed definition of the ''initial Auction Process time period,'' which would add clarity and internal consistency to the Rule, making it easier to navigate and comprehend).

[21] *See* Rule 6.64P–O(a)(10)(C) (which also provides a Trading Official may establish maximum differentials for one or more series or classes of options, which differ from those established by the Exchange).

[22] To qualify as a Legal Width Quote, the Calculated NBBO must also be uncrossed and must contain a non-zero offer, which requirements are not being modified by this rule change. *See* Rule 6.64P–O(a)(10)(A)–(B).

[23] *See* proposed Rule 6.64P–O(a)(10)(D).

[24] Similar to the Exchange, other options exchanges have rules granting them broad discretion to modify the opening parameters for each option series, which modifications are disseminated or announced to market participants over data feeds or trader notice. *See, e.g.,* Cboe Options Exchange, Inc. (''Cboe'') Rule 5.31(a) (definitions of Maximum Composite Width and Opening Collar, each of which the exchange ''may modify during the opening auction process (which modifications the Exchange disseminates to all subscribers to the Exchange's data feeds that deliver opening auction updates)''); Cboe EDGX Options Exchange, Inc. (''EDGX'') Rule 21.7(a) (same); Cboe BZX Options Exchange, Inc. (''BZX'') Rule 21.7(a) (definitions of Maximum Composite Width and Opening Collar); Cboe C2 Exchange Inc. (''C2'') Rule 6.11(a) (same); *see also* Miami Securities Exchange, Inc. (''MIAX'') Rule 503(f)(2) (which permits MIAX to determine by circular an acceptable range in which openings are permissible if there is no valid width national best bid or offer (''NBBO'')).

[25] *See, e.g.,* Rule 6.64P–O(d)(2)(A)–(B) (describing the process of opening a series with a trade or a quote depending on whether there is Matched Volume).

[26] *See* proposed Rule 6.64P–O(d)(4) (which includes the aforementioned non-substantive change to refer to the newly defined ''initial Auction Process time period'' rather than the first ninety seconds after the Auction Process). The Exchange is not altering Auction functionality for the initial Auction Process time period. *See id.*

[27] *See* proposed Rule 6.64P–O(d)(4)(B) (setting forth the necessary market conditions to open a series that has not opened per paragraph (d)(4) of the Pillar Rule). If the Exchange opens a series per Rule 6.64P–O(d)(4)(A), it first cancels any Market Order or MOO Orders before conducting an Auction and transitioning to continuous trading. *See* proposed Rule 6.64P–O(d)(4).

[28] *See* proposed Rule 6.64P–O(d)(4)(A). *See also* proposed Rule 6.64P–O(a)(10)(D).

increase execution opportunities for Limit Orders at then-current market prices.[29]

Although Limit Orders would be eligible to execute based on this proposed functionality, whether a Market Order or MOO Order may participate in the proposed Auction depends on the width of the market at the time of the Auction. Specifically, as further proposed, if the Calculated NBBO spread is wider than the differential established per paragraph (a)(10)(C) of this Rule, the Exchange would cancel Market Orders and MOO Orders before conducting the Auction, which proposed handling is consistent with the current Pillar Rule.[30] Conversely, as proposed, and consistent with the current Pillar Rule, Market Orders and MOO Orders are not canceled and will participate in an Auction that is based on a Calculated NBBO that is less than or equal to the Calculated NBBO spread limit established per Rule 6.64P–O(a)(10)(C).[31] As further proposed, after the cancelation of any Market Orders or MOO Orders as applicable, the Auction Process will proceed consistent with paragraph (d)(2)(A)–(B) of this Rule and the Exchange will execute Matched Volume (if any) to the extent possible before transitioning to continuous trading.[32]

Taken together, the proposed changes to Rule 6.64P–O(a)(10)(D) and (d)(4) would allow any series that has not opened by the end of the initial Auction Process time period the ability to open based on a Legal Width Quote derived from then-market conditions. As such, the Exchange proposes to modify Rule 6.64P–O(d)(4)(B) to update the cross-reference from paragraph (d)(4)(A) to paragraph (d)(4) and to eliminate as superfluous paragraph (d)(4)(B)(ii), which refers to waiting until ''the series can be opened as provided for in paragraph (d)(4)(A).'' [33] The Exchange believes these proposed conforming changes are necessary given that the proposed changes to Rule 6.64P–O(a)(10)(D) (removing the limit on the Calculated NBBO spread to qualify as Legal Width Quote) and (d)(4)(A) (addressing the conduct of an Auction after the initial Auction Process time period under the expanded definition of Legal Width Quote) render paragraph (d)(4)(B)(ii) of the Rule unnecessary.

The Exchange notes that it is not making any changes to the requirements to conduct an Auction during the initial Auction Process time period. Instead, the proposed changes relate solely to those series that remain unopened after the conclusion of the initial Auction Process time period because the Calculated NBBO spread is too wide. The Exchange believes that the initial Auction Process time period affords market participants sufficient opportunity to absorb available pricing information, including Market Makers that are generally responsible for pricing the market. If the Calculated NBBO remains wide by the end of the initial Auction Process time period, the Exchange believes it is unlikely to tighten if the Exchange were to further delay the opening of a series. The Exchange has observed that on a typical trading day, in the current system, nearly 98% of all series are opened by 9:32 a.m. Eastern Time. As such, the Exchange anticipates that the majority of series would be opened within ninety seconds of the Auction Process and would not be impacted by the proposed rule change. However, for the minority of option series that have not opened within the first ninety seconds, the Exchange believes it is necessary and appropriate to allow such series to open based on prices consistent with then-current market conditions, provided the Calculated NBBO for the series is not crossed, and does not contain a zero offer.

The Exchange believes the proposed modification to the Auction Process would continue to protect Market Orders and MOO Orders from being executed (by cancelling such orders before conducting the proposed Auction) when the Calculated NBBO spread exceeds the spread differential established per current Rule 6.64P–O(a)(10)(C) before conducting the proposed Auction. In addition, the proposed modification would allow any eligible Limit Orders to be executed in the proposed Auction, bound by the Calculated NBBO. The Calculated NBBO (even if wide) represents the best-priced quotes by Market Makers (which participants generally are responsible for pricing the market) and/or the ABBO, the presence of which indicates that another market has opened.[34]

Consistent with current functionality (and with the approved Pillar Rule), the Exchange would not permit any opening transactions to trade through any better-priced interest on any Away Market, even it is permitted to do so.[35] Rather, because interest in the Auction would not trade outside of the Calculated NBBO (which defines the then-current market for the series), any Limit Orders executed in the proposed Auction would, bound by Auction Collars, would trade at a price that is equal to or better than the price(s) available at other exchanges.[36] Per Rule 6.64P–O(f)(3)(A), any interest remaining after such Action is then evaluated for potential routing prior to being posted to the Consolidated Book. Further, the Exchange notes that there are other price protections available to limit the

[29] *See id. See also* Rule 6.64P–O(a)(9)(A) (providing, in relevant part, that ''the Indicative Match Price would not be lower (higher) than the highest (lowest) price of a Limit Order to buy (sell) ranked Priority 2—Display Orders that is eligible to participate in the Auction''). In addition, consistent with the proposal, the Exchange proposes to remove as inapplicable the text in current Rule 6.64P–O(d)(4)(A) indicating that the ''Auction is not intended to end with a trade, but it may result in a trade even if there is no Legal Width Quote if orders or quotes arrive during the period when the Exchange is evaluating the status of orders and quotes'' as well as text indicating that the Exchange would ''transition to continuous trading as described in paragraph (f) of this Rule.'' *See* proposed Rule 6.64P–O(d)(4)(A).

[30] *See* Rule 6.64P–O(d)(4)(A)(i) (providing that Market Orders and MOO Orders are cancelled ''[a]ny time a series is opened or reopened when there is no Legal Width Quote,'' *i.e.,* when the Calculated NBBO exceeds the maximum allowable spread limit set forth in Rule 6.64P–O(a)(10)(C)'').

[31] *See id.* To avoid potential confusion regarding the distinct handling of Market Orders and MOO Orders under proposed Rule 6.64P–O(d)(4)(A) depending upon whether an Auction is conducted based on a Calculated NBBO spread that is in compliance with Rule 6.64P–O(a)(10)(C) or with proposed Rule 6.64P–O(a)(10)(D), the Exchange has intentionally avoided reference to the presence of a Legal Width Quote in the proposed Rule. *See* proposed Rule 6.64P–O(d)(4)(A).

[32] *See, e.g.,* Rule 6.64P–O(d)(2)(A)–(B) (providing that ''[i]f there is Matched Volume that can trade at or within the Auction Collars, the Auction will result in a trade at the Indicative Match Price'' or, ''[i]f there is no Matched Volume that can trade at or within the Auction Collars,'' the Auction will not result in a trade and the Exchange will transition to continuous trading as described in paragraph (f) of this Rule and the Auction will result in a quote'').

[33] *See* proposed Rule 6.64P–O(d)(4)(A). *See* proposed Rule 6.64P–O(d)(4)(B). The Exchange also proposes conforming changes to re-number the remaining paragraphs in light of the proposed deletion, which would add clarity and internal consistency to the Rule. *See id.*

[34] Options exchanges have varying opening processes and have made separate determinations on what constitutes individual, reasonable opening market widths. Thus, if other options exchanges opened a series with a market width, it is reasonable to open the series for trading on the Exchange as well (as orders submitted to other exchanges may be trading at those widths).

[35] Although the intermarket linkage rules exempt from trade-through liability trades occurring during the opening process, the Exchange would continue to restrict transactions occurring at the open to the NBBO. *See* Rule 6.94–O(b)(2) (exempting from trade-through liability those transactions that ''traded through a Protected Quotation being disseminated by an Eligible Exchange during a trading rotation''). A ''Protected Quotation'' is the Best Bid or Best Offer disseminated by OPRA and displayed by an Eligible Exchange. *See* Rule 6.92–O(15)–(16).

[36] *See* Rule 6.64P–O(b)(2)(A) (A) (providing that, '[i]f there is Matched Volume that can trade at or within the Auction Collars, the Auction will result in a trade at the Indicative Match Price). *See also* Rule 6.64–O(a)(3),(9), and (11) (defining Auction Collars, Indicative Match Price, and Matched Volume, respectively).

risk of executions at a wider market price.[37] Thus, the Exchange believes that the risk of an extreme execution based on the Calculated NBBO available after the initial Auction Process time period may be mitigated for the aforementioned reasons. The Exchange believes that, on balance, the benefits to market participants of having the series open earlier outweighs this mitigated risk.

Finally, the Exchange also proposes to modify the requirements to open a series during the initial Auction Process time period for option series with two or more assigned Market Makers, per Rule 6.64P–O(d)(3)(C). Per Rule 6.64P–O(3)(C)(i), if there are two or more Market Makers assigned to a series, the Exchange will conduct the Auction, without waiting for the Opening MMQ Timer to end, as soon as there is both a Legal Width Quote and at least two assigned Market Makers have submitted a quote with a non-zero offer. Per Rule 6.64P–O(3)(C)(ii), if at least two Market Makers assigned to a series have not submitted a quote with a non-zero offer by the end of the Opening MMQ Timer, the Exchange will begin a second Opening MMQ Timer. The Exchange proposes to modify these provisions to provide that the Exchange would require that at least two quotes with non-zero offers be submitted during the Opening MMQ Timer, which quotes may be sent by one or more Market Makers.[38]

The Exchange believes that the proposed change continues to encourage (but not require) Market Makers to participate at the open, which may increase the availability of Legal Width Quotes in more series, thereby allowing more series to open in a timely manner. The Exchange believes that expanding the opportunities for each Market Maker to enter the market—whether by each Market Maker submitting one quote or a single Market Maker submitting two quotes—could result in the depth of liquidity that market participants have come to expect in options with multiple assigned Market Makers, and a more stable trading environment. The Exchange believes the proposed rule change would provide more flexibility in terms of how market depth is achieved (*i.e.,* based on quotes from a single Market Maker as opposed to two) and may result in a more timely and efficient opening process. Further, the proposed change may increase the availability of Legal Width Quotes in more series and would add clarity and transparency to Exchange rules.

Other Exchange Rules: Proposed Non-Substantive or Clarifying Changes

The Exchange also proposes to make several clarifying or non-substantive changes to certain of its rules. First, the Exchange proposes to modify paragraph (c) of Rule 6.37–O (Obligations of Market Makers) regarding ''Unusual Conditions—Auctions'' to add an open parenthesis in the cross reference to Rule 6.64P–O(a)(10).[39] The Exchange believes this proposed change would correct an inadvertent omission and would add clarity and transparency to Exchange rules.

Next, the Exchange proposes to correct several cross-references in Rule 6.62P–O (Orders and Modifiers). The Exchange proposes to update the reference in Rule 6.62P–O(e)(3)(C)(ii) regarding Day ISO ALO Orders to correctly cross-reference paragraphs (e)(2)(C)–(F) (rather than to paragraphs (e)(2)(C)–(G)) to cover the processing of such ALO Orders once resting.[40] The proposed change would correct an inadvertent error adding clarity and transparency to Exchange rules. Similarly, the Exchange proposes to update the reference in Rule 6.62P–O(h)(6)(B) to correctly cross-reference the defined term Complex Order, which is set forth in Rule 6.62P–O(f) (rather than paragraph (e)).[41] The proposed change would correct an inadvertent error adding clarity and transparency to Exchange rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[42] in general, and furthers the objectives of Section 6(b)(5),[43] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Proposed Change to Pillar Auction Process

Overall, the Exchange believes the proposed changes to its Auction Process would promote a fair and orderly market by improving the speed and efficiency of the Exchange's opening process without impairing price discovery, which should result in better and more consistent prices on Auction executions and facilitate a fair and orderly transition to continuous trading. As noted herein, the Exchange believes that the (continued) requirement that interest executed in an Auction must trade at or within the Calculated NBBO (which defines the then-current market for the series) would provide protection for such interest.

The Exchange believes modifying the definition of Legal Width Quote to make clear that after the initial Auction Process time period the Exchange would no longer impose its own established limits on the maximum allowable Calculated NBBO spread to qualify a series as having a Legal Width Quote would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would add clarity and transparency to the Auction Process to the benefit of all market participants.[44] The Exchange notes that it currently has discretion to establish for each option class the maximum allowable spread of the Calculated NBBO within which the Exchange will conduct an Auction, provided that the other elements of a Legal Width Quote are met, which authority is consistent with other options exchanges. Although the Exchange has rule authority (per current Rule 6.64P–O(a)(10)(C)) to establish one set of Calculated NBBO spreads for the first ninety seconds of

[37] *See* Rule 6.41P–O(a)(1), (b) (regarding the Arbitrage Check, which is applied pre-open). The Exchange notes that the price protection mechanisms it employs during continuous trading are based on the NBBO, or Auction Prices as applicable. *See, e.g.,* Rules 6.41P–O(c)(4)(B) (regarding the Intrinsic Value Check); Rule 6.62P–O(a)(4)(A) (regarding Limit Order Price Protection); and Rule 6.62P–O(a)(4)(B) (regarding Trading Collars).

[38] *See* proposed Rule 6.64P–O(d)(2) (providing that ''[o]nce a Rotational Quote has been sent, the Exchange will conduct an Auction when there is both a Legal Width Quote and, if applicable, Market Maker quotes with a non-zero offer in the series (subject to the Opening MMQ Timer(s) requirements in paragraph (d)(3) of this Rule'') and Rule 6.64P–O(d)(3)(C)(i) (providing that ''[t]he Exchange will conduct the Auction, without waiting for the Opening MMQ Timer to end, as soon as there is both a Legal Width Quote and at least two quotes with a non-zero offer submitted by assigned Market Maker(s)'') and (d)(3)(C)(ii) (providing that ''[i]f the Exchange has not received at least two quotes with a non-zero offer from any Market Maker(s) assigned to a series by the end of the Opening MMQ Timer, the Exchange will begin a second Opening MMQ Timer'').

[39] *See* proposed Rule 6.37–O(c).

[40] *See* proposed Rule 6.62P–O(e)(3)(C)(ii).

[41] *See* proposed Rule 6.62P–O(h)(6)(B).

[42] 15 U.S.C. 78f(b).

[43] 15 U.S.C. 78f(b)(5).

[44] *See supra* note 24 (citing the discretion of Cboe and its affiliates and MIAX to modify the opening auction parameters).

the Auction Process and a second (wider) set of Calculated NBBO spreads for any time after the first ninety seconds, it believes the proposed change to the definition of Legal Width Quote would help avoid potential investor confusion to the benefit of all market participants.

The Exchange believes the proposal to amend Rule 6.64P–O(d)(4) to allow the Exchange to conduct an Auction after the conclusion of the initial Auction Process time period and consistent with proposed paragraph (a)(10)(D) of this Rule (*i.e.,* without imposing certain limits established on the Calculated NBBO spread) would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors. First, the Exchange believes that the proposal to wait a ninety-second initial Auction Process time period before removing the limits on the permissible Calculated NBBO spread to open a series (*i.e.,* proposed Rule 6.64P–O(a)(10)(D)) would continue to provide opportunities for price discovery based on then-current market conditions, including affording sufficient time to Market Makers (who are generally responsible for pricing the market) to absorb available pricing information and, if so inclined, to update their quotes potentially resulting in tighter spreads. The Exchange has observed that on a typical trading day, in the current system, nearly 98% of all series are opened by 9:32 a.m. Eastern Time. As such, the Exchange anticipates that the majority of series would be opened within ninety seconds of the Auction Process and would not be impacted by the proposed rule change. For the minority of option series that have not opened within the first ninety seconds because of a ''wide'' Calculated NBBO, the Exchange believes it is unlikely that such spread would tighten if the Exchange were to further delay the opening of a series. Thus, the Exchange believes it is necessary and appropriate to allow such series to open based on prices consistent with then-current market conditions, provided the Calculated NBBO for the series is not crossed, and does not contain a zero offer.

Further, the Exchange believes the proposed modification would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because the proposed Auction Process would continue to protect Market Orders and MOO Orders from being executed (by cancelling such orders before conducting the proposed Auction) when the Calculated NBBO spread exceeds the spread differential established per (current) Rule 6.64P–O(a)(10)(C) before conducting the proposed Auction. In addition, the proposed modification would allow any eligible Limit Orders to be executed in the proposed Auction, bound by the Calculated NBBO. The Calculated NBBO (even if wide) represents the best-priced quotes by Market Makers (which participants generally are responsible for pricing the market) and/or the ABBO, the presence of which indicates that another market has opened.[45]

Consistent with current functionality (and with the approved Pillar Rule), the Exchange would not permit any opening transactions to trade through any better-priced interest on any Away Market, even it is permitted to do so.[46] Rather, because interest in the Auction would not trade outside of the Calculated NBBO (which defines the then-current market for the series), any Limit Orders executed in the proposed Auction would, bound by Auction Collars, would trade at a price that is equal to or better than the price(s) available at other exchanges.[47] Per Rule 6.64P–O(f)(3)(A), any interest remaining after such Action is then evaluated for potential routing prior to being posted to the Consolidated Book. Further, the Exchange notes that there are other price protections available to limit the risk of executions at a wider market price.[48] Thus, the Exchange believes that the risk of an extreme execution based on the Calculated NBBO available after the initial Auction Process time period may be mitigated for the aforementioned reasons. The Exchange believes that, on balance, the benefits to market participants of having the series open earlier outweighs this mitigated risk.

The Exchange believes its proposal to modify the requirements to open a series for option series that have two or more assigned Market Makers would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would continue to provide Market Makers assigned to such series the opportunity to submit a quote while potentially promoting a more timely opening once at least two quotes (even if from a single Market Maker) have been submitted and would add clarity and transparency to Exchange rules. The Exchange believes the proposed rule change would provide more flexibility in terms how of market depth in the affected series is achieved (*i.e.,* based on quotes from a single Market Maker as opposed to two) and may result in a more timely and efficient opening process. Further, the proposed change may increase the availability of Legal Width Quotes in more series and would add clarity and transparency to Exchange rules. Improving the validity of the opening price benefits all market participants and also benefits the reputation of the Exchange as being a venue that provides accurate price discovery. To the extent that this proposed rule change results in an option series opening sooner, which, in turn would increase the times during which investors may conduct trading in these options, this proposed change would benefit investors and the investing public.

The Exchange believes that the proposed non-substantive and conforming changes to Rule 6.64P–O (including to paragraph (d)(4)(B)) would promote just and equitable principles of trade because such changes would streamline Rule 6.64P–O, thus adding clarity to the Auction Process making it easier to comprehend and navigate to the benefit of market participants and would promote transparency and internal consistency within Exchange rules making them easier to comprehend and navigate.[49]

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[45] Options exchanges have varying opening processes and have made separate determinations on what constitutes individual, reasonable opening market widths. Thus, if other options exchanges opened a series with a market width, it is reasonable to open the series for trading on the Exchange as well (as orders submitted to other exchanges may be trading at those widths).

[46] Although the intermarket linkage rules exempt from trade-through liability trades occurring during the opening process, the Exchange would continue to restrict transactions occurring at the open to the NBBO. *See* Rule 6.94–O(b)(2) (exempting from trade-through liability those transactions that ''traded through a Protected Quotation being disseminated by an Eligible Exchange during a trading rotation''). A ''Protection Quotation'' is the Best Bid or Best Offer disseminated by OPRA and displayed by an Eligible Exchange. *See* Rule 6.92–O(15)–(16).

[47] *See* Rule 6.64P–O(b)(2)(A) (A) (providing that, '[i]f there is Matched Volume that can trade at or within the Auction Collars, the Auction will result in a trade at the Indicative Match Price). *See also* Rule 6.64–O(a)(3),(9), and (11) (defining Auction Collars, Indicative Match Price, and Matched Volume, respectively).

[48] *See* Rule 6.41P–O(a)(1), (b) (regarding the Arbitrage Check, which is applied pre-open). The Exchange notes that the price protection mechanisms it employs during continuous trading are based on the NBBO, or Auction Prices as applicable. *See, e.g.,* Rules 6.41P–O(c)(4)(B) (regarding the Intrinsic Value Check); Rule 6.62P–O(a)(4)(A) (regarding Limit Order Price Protection); and Rule 6.62P–O(a)(4)(B) (regarding Trading Collars).

[49] *See supra* notes 20, 26, 29 and 33.

Additional Proposed Non-Substantive or Clarifying Changes to Exchange Rules

The Exchange believes that the proposed non-substantive and clarifying changes that update/correct inaccurate references would promote transparency and internal consistency within Exchange rules making them easier to comprehend and navigate.[50]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a competitive market and regularly competes with other options exchanges for order flow. The Exchange does not believe that the proposed rule change would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because all market participants may trade in any series that opens subject to the proposed (modified) opening process.

The Exchange does not believe that the proposed rule change would impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is designed to open series on the Exchange in a fair and orderly manner. The Exchange believes the proposed opening process will continue to provide market participants with an opportunity for price discovery based on then-current market conditions when the Exchange opens series for trading. This will facilitate the presence of sufficient liquidity in a series when it opens, and increase the ability of series to open at prices consistent with then-current market conditions (at the Exchange and on other exchanges). As noted herein, several options exchanges likewise have discretion to modify their opening procedures to address then-current market conditions.[51] Further, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, as all market participants that participate in the opening process may benefit equally from the proposal, as the rules of the Exchange apply equally to all market participants.

The Exchange does not believe that the proposed change to open those series with more than one assigned Market Maker based on two quotes regardless of the source would result in an undue burden on competition. Market Makers are encouraged but not required to quote in their assigned series at the open regardless of whether a Market Maker is one of several assigned to a series or is the only one. As such, this proposal would not subject any Market Maker to additional obligations. Thus, the Exchange does not believe this proposed change would result in an undue burden on intra-market competition as it would apply equally to all similarly-situated Market Makers regarding their assigned series. The Exchange believes that the proposal to allow a series with more than one assigned Market Maker to open based on two quotes regardless of the source would continue to encourage participation of Market Makers at the open, may increase the availability of Legal Width Quotes in more series, thereby allowing more series to open (sooner). Improving the validity of the opening price benefits all market participants and also benefits the reputation of the Exchange as being a venue that provides accurate price discovery. With respect to inter-market competition, the Exchange notes that most options exchanges do not require Market Makers to quote during the opening.[52]

Additionally, the non-substantive changes proposed by the Exchange provide additional clarity and detail in the Exchange's rules and are not changes made for any competitive purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2022–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–31 and should be submitted on or before June 17, 2022.

[50] *See supra notes* 39–41.

[51] *See, e.g., supra* note 24 (citing the discretion of Cboe and its affiliates and MIAX to modify the opening auction parameters).

[52] *See, e.g.,* Cboe and its affiliated exchanges.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11396 Filed 5–26–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94971; File No. SR–ISE–2022–12]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Nasdaq Amended and Restated Certificate of Incorporation

May 23, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2022, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') of its parent corporation, Nasdaq, Inc. (''Nasdaq'' or the ''Company''), to increase Nasdaq's authorized share capital.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Nasdaq Certificate [3] to increase the total number of authorized shares of Nasdaq common stock, par value $0.01 per share (''Common Stock''). Specifically, the Exchange proposes to amend Article Fourth, Section A such that the total number of shares of Stock (*i.e.,* capital stock) that Nasdaq is authorized to issue would be increased from 330,000,000 to 930,000,000 shares, and the portion of that total constituting Common Stock would be changed from 300,000,000 to 900,000,000 shares. As amended, Article Fourth, Section A of the Certificate would provide:

> The total number of shares of Stock which Nasdaq shall have the authority to issue is Nine Hundred Thirty Million (930,000,000), consisting of Thirty Million (30,000,000) shares of Preferred Stock, par value $.01 per share (hereinafter referred to as ''Preferred Stock''), and Nine Hundred Million (900,000,000) shares of Common Stock, par value $.01 per share (hereinafter referred to as ''Common Stock'').[4]

As noted above, the proposed amendments to the Certificate were approved by the Nasdaq Board of Directors (''Nasdaq Board'') on March 23, 2022. The proposed amendments to the Certificate would be effective when filed with the Secretary of State of Delaware, which would not occur until approval of the amendments by the stockholders of Nasdaq is obtained at the 2022 Annual Meeting of the Stockholders on June 22, 2022 and until this proposed rule change becomes effective and operative.

The trading price of Nasdaq's Common Stock has risen significantly over the past several years. Since Nasdaq first became a publicly traded company in 2002, the total number of authorized shares of Common Stock has remained constant at 300,000,000 shares. However, over the last five years, the trading price of Nasdaq's Common Stock has increased by approximately 162%.[5] As the trading price of Nasdaq's Common Stock has risen, the Nasdaq Board has carefully evaluated the effect of the trading price of the Common Stock on the liquidity and marketability of the Common Stock. The Nasdaq Board believes that this price appreciation may be affecting the liquidity of the Common Stock, making it more difficult to efficiently trade and potentially less attractive to certain investors. Accordingly, the Nasdaq Board approved pursuing a 3-for-1 stock split by way of a stock dividend, pursuant to which the holders of record of shares of Common Stock would receive, by way of a dividend, two shares of Common Stock for each share of Common Stock held by such holder (the ''Stock Dividend''). The Nasdaq Board's approval of the Stock Dividend was contingent upon this proposed rule change becoming effective and operative, and Nasdaq stockholder approval of the proposed amendments to the Certificate.

The number of shares of Common Stock proposed to be issued in the Stock Dividend exceeds Nasdaq's authorized but unissued shares of Common Stock. The proposed rule change would increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend.

The proposed changes would not otherwise alter the Certificate, including the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate that generally provides no person who beneficially owns shares of common stock or preferred stock of Nasdaq in excess of 5% of the then-outstanding securities generally entitled to vote may vote the shares in excess of 5%. This limitation mitigates the potential for any Nasdaq shareholder to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries, and facilitates the self-regulatory subsidiaries' and the Commission's ability to carry out their regulatory obligations under the Act.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[53] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq owns 100% of the equity interest in U.S. Exchange Holdings, Inc., which in turn owns 100% of the equity interest in International Securities Exchange Holdings, Inc., which in turn owns 100% of the equity interest in the Exchange. The Exchange's affiliates, Boston Stock Exchange Clearing Corporation, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq MRX, LLC, The Nasdaq Stock Market LLC, Nasdaq PHLX LLC, and Stock Clearing Corporation of Philadelphia will each concurrently submit substantially the same rule filings to propose the changes described herein.

[4] Nasdaq currently has no Preferred Stock outstanding.

[5] The price of one share of Common Stock on March 31, 2017 was $69.45 and the closing market price of one share of Common Stock on April 1, 2022 was $181.92 as reported on the Nasdaq Stock Market.

of the Act,[6] in general, and furthers the objectives of Section 6(b)(1) of the Act,[7] in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposal to increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend would not impact the Exchange's ability to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act. In particular, the proposed changes would not alter the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate, and so the proposed changes would not enable a person to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries or to restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act [8] because it would not impact the Exchange's governance or regulatory structure, which would continue to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, because by increasing Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend, the proposed rule change will facilitate broader ownership of Nasdaq.

The Exchange also notes that the proposed rule change is substantially similar to a prior proposal by Intercontinental Exchange, Inc. (''ICE''), which is the holding company for three national securities exchanges, including the New York Stock Exchange. The ICE proposal amended ICE's Certificate of Incorporation to effectuate a similar stock split as proposed by the Exchange herein.[9] As such, the Exchange does not believe that its proposal raises any new or novel issues not already considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates solely to the number of authorized shares of Common Stock and shares of capital stock of the Company and not to the operations of the Exchange, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2022–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2022–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2022–12 and should be submitted on or before June 17, 2022.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(1).

[8] 15 U.S.C. 78f(b)(5).

[9] In particular, the ICE proposal increased ICE's total number of authorized shares of ICE common stock in order to effectuate a 5-for-1 stock split by way of a stock dividend. *See* Securities Exchange Act Release No. 78992 (September 29, 2016), 81 FR 69092 (October 5, 2016) (SR–NYSE–2016–57, SR–NYSEArca–2016–119, and SR–NYSEMKT–2016–80) (hereinafter, ''ICE Approval'').

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11399 Filed 5–26–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–537, OMB Control No. 3235–0597]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 31 and Form R31

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 31 (17 CFR 240.31) and Form R31 (17 CFR 249.11) under the Securities Exchange Act of 1934 (15 U.S.C. 78ee) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 31 of the Exchange Act requires the Commission to collect fees and assessments from national securities exchanges and national securities associations (collectively, ''self-regulatory organizations'' or ''SROs'') based on the volume of their securities transactions. To collect the proper amounts, the Commission adopted Rule 31 and Form R31 under the Exchange Act whereby each SRO must report to the Commission the volume of its securities transactions and the Commission, based on those data, calculates the amount of fees and assessments that each SRO owes pursuant to Section 31. Rule 31 and Form R31 require each SRO to provide these data on a monthly basis.

Currently, there are 27 respondents under Rule 31 that are subject to the collection of information requirements of Rule 31: 24 national securities exchanges, one national securities association, and two registered clearing agencies that are required to provide certain data in their possession needed by the SROs to complete Form R31, although these two clearing agencies are not themselves required to complete and submit Form R31.[1] The Commission estimates that the total burden for all 27 respondents is 432 hours per year. The Commission estimates that, based on previous and current experience, three additional national securities exchanges will become registered and subject to the reporting requirements of Rule 31 over the course of the authorization period and collectively incur a burden of 18 hours per year. Thus, the Commission estimates the collective burden for all respondents (existing and new added together) to be 450 hours per year. The SEC does not believe that the 27 existing or 3 expected new respondents will have to incur any capital or start-up costs, or any additional operational or maintenance costs (other than as already discussed in this paragraph), to comply with the collection of information requirements imposed by Rule 31 and Form R31. The SEC estimates that the average annual cost to the SEC of processing all of these filings would be $20,307.48 (90.1 hours at an average of $225.39 per hour).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing by July 26, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: May 23, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11390 Filed 5–26–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94970; File No. SR–PEARL–2022–19]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule

May 23, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 9, 2022, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[12] 17 CFR 200.30–3(a)(12).

[1] Since the last renewal period, when there was one security futures exchange that reported transactions, that exchanged has ceased operation. Therefore, currently, no security futures exchanges report any transaction in security futures on Form R31.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to modify the Taker fees (defined below) in certain Tiers for transactions in Penny Classes (defined below) for MIAX Pearl Market Makers.[3] The Exchange originally filed this proposal on April 29, 2022 (SR–PEARL–2022–16). On May 9, 2022, the Exchange withdrew SR–PEARL–2022–16 and resubmitted this proposal.

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[4] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts)[5] (as the numerator) expressed as a percentage of (divided by) TCV[6] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[7] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX Pearl System,[8] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO[9] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program[10] (''Penny Classes'') than for order executions in standard option classes which are not in the Penny Interval Program (''Non-Penny Classes''), where Members are assessed higher transaction fees and receive higher rebates.

Proposal

The Exchange proposes to amend the Fee Schedule for the Exchange's options market to modify the Taker fees in certain Tiers for options transactions in Penny Classes for MIAX Pearl Market Makers. Currently, the Exchange provides different Taker fees for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against Priority Customer[11] Origin in Tiers 5 and 6 depending on whether the executing buyer and seller are or are not the same Member or Affiliate. In particular, the Exchange assesses a Taker fee of $0.48 for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against Priority Customer Origin in Tier 5 when the executing buyer and seller are the same Member or Affiliates. This is denoted by the symbol ''★'' following the tables of rebates and fees in Section (1)(a) of the Fee Schedule. The Exchange also assesses a Taker fee of $0.50 for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against Priority Customer Origin in Tier 5 when the executing buyer and seller are not the same Member or Affiliates. This is denoted by the symbol ''☆'' following the tables of rebates and fees in Section (1)(a) of the Fee Schedule. Similarly, the Exchange assesses a Taker fee of $0.47 for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against Priority Customer Origin in Tier 6 when the executing buyer and seller are the same Member or Affiliates. This is denoted by the symbol ''★'' following the tables of rebates and fees in Section (1)(a) of the Fee Schedule. The Exchange also assesses a Taker fee of $0.50 for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against Priority Customer

[3] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of Exchange Rules. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[7] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the following process. A MIAX PEARL Market Maker appoints an EEM and an EEM appoints a MIAX PEARL Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* the Definitions Section of the Fee Schedule.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[10] *See* Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR–PEARL–2020–06).

[11] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 of Exchange Rule 100. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100, including Interpretation and Policy .01.

Origin in Tier 6 when the executing buyer and seller are not the same Member or Affiliates. This is denoted by the symbol ''☆'' following the tables of rebates and fees in Section (1)(a) of the Fee Schedule.

The Exchange now proposes to remove the symbols ''★'' and ''✧'' from the Fee Schedule and no longer assess different Taker fees for options transactions in Penny Classes for MIAX Pearl Market Makers when trading against the Priority Customer Origin in Tiers 5 and 6 depending on whether the executing buyer and seller are or are not the same Member or Affiliate. With the proposed changes, the Exchange will assess the Taker fee rate of $0.50 for all options transactions in Penny Classes for MIAX Pearl Market Makers when trading against the Priority Customer Origin in Tiers 5 and 6. Accordingly, the Exchange proposes to delete the $0.48 Taker fee rate in Tier 5 and $0.47 Taker fee rate in Tier 6 in the MIAX Pearl Market Origin table for options transactions in Penny Classes when trading against the Priority Customer Origin.

The purpose of adjusting the specified Taker fees is for business and competitive reasons. In order to attract order flow, the Exchange initially set its Taker fees so that they were lower than other options exchanges that operate comparable maker/taker pricing models.[12] The Exchange now believes that it is appropriate to further adjust these specified Taker fees so that they are more in line with other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[13]

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(4) of the Act,[15] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[16] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [17]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 13–14% market share for the month of May 2022.[18] Therefore, no exchange possesses significant pricing power. More specifically, as of May 9, 2022, the Exchange has a market share of approximately 4.67% of executed volume of multiply-listed equity options for the month of May 2022.[19] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[20] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that its March 1, 2019, fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX Pearl's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes its proposal to modify the Taker fees in certain Tiers for options transactions in Penny classes for Market Makers is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange initially set its Taker fees for such orders generally lower than certain other options exchanges that operate comparable maker/taker pricing models.[21] The Exchange now believes that it is appropriate to modify those specified Taker fees by removing the different rates depending on whether the executing buyer and seller are the same Member or Affiliates, thereby making the Taker fee the same $0.50 for Tiers 5 and 6 so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.

The Exchange believes its proposal is not unfairly discriminatory because, with the proposed changes, the Taker fees for Market Makers will be the same as the Taker fees for all other Origin types except for Priority Customer Origin orders. With the proposed changes, the Taker fees for Market Makers will be $0.50 per contract for all Tiers, which is the same as the Taker fees for all Tiers for the Non-Priority Customer, Firm, BD, and non-MIAX Pearl Market Makers Origin

[12] *See* Securities Exchange Act Release Nos. 80061 (February 17, 2017), 82 FR 11676 (February 24, 2017) (SR–PEARL–2017–10) (establishing the Exchange's fee schedule with the highest Tier Taker fee of $0.47 for Market Makers in Penny Classes); 82900 (March 19, 2018), 83 FR 12836 (March 23, 2018) (SR–PEARL–2018–09) (lowering Taker fees in Tiers 4, 5 and 6 to $0.43 for Market Makers in Penny Classes approximately one year after the Exchange's launch); 83814 (August 9, 2018), 83 FR 40605 (August 15, 2018) (SR–PEARL–2018–17) (increasing Taker fees in Tiers 4, 5 and 6 for Market Makers in Penny Classes to bring those fees more in line with other options exchanges' taker fees at that time).

[13] *See e.g.,* BOX Options Fee Schedule, Section I. Electronic Transaction Fees, A. Non-Auction Transactions (base Taker fee of $0.50 per contract for the Market Maker account type when trading against a Public Customer).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(1) and (b)(5).

[17] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[18] *See* ''The market at a glance,'' (last visited May 9, 2022), *available at https://www.miaxoptions.com/.*

[19] *See id.*

[20] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

[21] *See supra* note 12.

(''Professional Members''). The Exchange believes that it is equitable and not unfairly discriminatory to assess higher Taker fees to Market Makers and Professional Members than to Priority Customer Origin orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).[22] This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including non-Priority Customers, Non-MIAX Pearl Market Makers, Firms, and Broker-Dealers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes in the Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all participants who will be able to compete for such opportunities. The proposed rule changes should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The proposed Taker fee adjustments are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because the proposal modifies the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[23] and Rule 19b–4(f)(2)[24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2022–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2022–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2022–19, and should be submitted on or before June 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

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[22] *See supra* note 11.

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

[24] 17 CFR 240.19b–4(f)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94961; File No. SR–NYSEArca–2022–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Use of Custom Baskets by Certain Series of Active Proxy Portfolio Shares Listed and Traded on the Exchange Pursuant to NYSE Arca Rule 8.601–E

May 23, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 12, 2022, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to facilitate the use of Custom Baskets by certain series of Active Proxy Portfolio Shares listed and traded on the Exchange pursuant to NYSE Arca Rule 8.601–E. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges, of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[4] The Exchange subsequently amended Rule 8.601–E to provide for the use of Custom Baskets, which are portfolios of securities that are different from the Proxy Portfolio and are otherwise consistent with the exemptive relief issued pursuant to the Investment Company Act of 1940 (the ''1940 Act'') applicable to a series of Active Proxy Portfolio Shares.[5]

Background

Rule 8.601–E sets forth certain rules related to the listing and trading of Active Proxy Portfolio Shares. Under Rule 8.601–E(c)(1), the term Active Proxy Portfolio Shares means a security that (a) is issued by an investment company registered under the 1940 Act (an ''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio or Custom Basket, as applicable, and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio or Custom Basket, as applicable, and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

Rule 8.601–E(c)(2) defines the term ''Actual Portfolio'' as identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day.

Rule 8.601–E(c)(3) defines the term ''Proxy Portfolio'' as a specified portfolio of securities, other financial instruments, and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the 1940 Act applicable to such series. The website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the 1940 Act applicable to such series, including the following, to the extent applicable:

(i) Ticker symbol;

(ii) CUSIP or other identifier;

(iii) Description of holding;

(iv) Quantity of each security or other asset held; and

(v) Percentage weighting of the holding in the portfolio.

Rule 8.601–E(c)(4) defines the term ''Custom Basket'' as a portfolio of securities that is different from the Proxy Portfolio and is otherwise consistent with the exemptive relief issued pursuant to the 1940 Act applicable to a series of Active Proxy Portfolio Shares.

Proposed Rule Change

Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Pursuant to this provision, the Exchange submitted proposals relating to the following series of Active Proxy Portfolio Shares that are currently listed and traded on the Exchange (each, a ''Fund'' and, collectively, the ''Funds''):[6]

- Natixis U.S Equity Opportunities ETF[7]
- T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, and T. Rowe Price Equity Income ETF[8]
- American Century Mid Cap Growth Impact ETF and American Century Sustainable Equity ETF[9]
- Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson Mid Cap ETF[10]
- Stance Equity ESG Large Cap Core ETF[11]

[4] *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95) (Notice of Filing of Amendment No. 6 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 6, to Adopt NYSE Arca Rule 8.601–E to Permit the Listing and Trading of Active Proxy Portfolio Shares and To List and Trade Shares of the Natixis U.S. Equity Opportunities ETF Under Proposed NYSE Arca Rule 8.601–E) (the ''Natixis Approval Order'').

[5] *See* Securities Exchange Act Release No. 93120 (September 24, 2021), 86 FR 54257 (September 30, 2021) (SR–NYSEArca–2021–64) (the ''Custom Basket Approval Order'').

[6] The approval orders and notices of immediate effectiveness pursuant to which shares of the Funds are listed and traded are referred to collectively herein as the ''Prior Filings.''

[7] *See* Natixis Approval Order, *supra* note 4.

[8] *See* Securities Exchange Act Release No. 89191 (June 30, 2020), 85 FR 40358 (July 6, 2020) (SR–NYSEArca–2019–92) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Four Series of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. under NYSE Arca Rule 8.601–E) (the ''T. Rowe Price Approval Order'').

[9] *See* Securities Exchange Act Release No. 89192 (June 30, 2020), 85 FR 40699 (July 7, 2020) (SR–NYSEArca–2019–96) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to List and Trade Two Series of Active Proxy Portfolio Shares Issued by the American Century ETF Trust under NYSE Arca Rule 8.601–E) (the ''American Century Approval Order'').

[10] *See* Securities Exchange Act Release No. 89438 (July 31, 2020), 85 FR 47821 (August 6, 2020) (SR–NYSEArca–2020–51) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF under NYSE Arca Rule 8.601–E) (the ''Natixis Vaughan Approval Order'').

[11] *See* Securities Exchange Act Release No. 91266 (March 5, 2021), 86 FR 13930 (March 11, 2021) (SR–NYSEArca–2020–104) (Order Approving a

- T. Rowe Price U.S. Equity Research ETF [12]
- Fidelity Sustainability U.S. Equity ETF and Fidelity Women's Leadership ETF [13]
- Putnam Sustainable Future ETF, Putnam Sustainable Leaders ETF, Putnam Focused Large Cap Growth ETF, and Putnam Focused Large Cap Value ETF [14]
- American Century Sustainable Growth ETF [15]
- Nuveen Dividend Growth ETF, Nuveen Small Cap Select ETF, and Nuveen Winslow Large-Cap Growth ESG ETF [16]
- Nuveen Growth Opportunities ETF [17]
- Schwab Ariel ESG ETF [18]

The Exchange proposes to modify representations made in each Fund's original filing that provided for the creation and redemption of shares using the Proxy Portfolio or cash. Specifically, the Exchange proposes to permit each Fund to use a Custom Basket, in addition to a Proxy Portfolio or cash, to create or redeem shares in accordance with its respective exemptive relief and current Rule 8.601–E. The Exchange believes that updating such representations to permit the Funds to use Custom Baskets, to the extent consistent with the terms of a Fund's exemptive relief, would benefit the investing public and the marketplace by providing greater flexibility in the creation and redemption process for shares of Active Proxy Portfolio Shares and would promote competition among various ETF products.

Accordingly, the issuers of each Fund each represent that it and any person acting on behalf of the series of Active Proxy Portfolio Shares which are the subject of this filing will comply with Regulation Fair Disclosure under the Act,[19] including with respect to any Custom Basket. Each issuer also represents that for each Custom Basket utilized by each Fund, each business day, before the opening of trading during the Exchange's Core Trading Session (as defined in Rule 7.34–E(a)), each Fund will make publicly available on its website the composition of any Custom Basket transacted on the previous business day, except a Custom Basket that differs from the applicable Proxy Portfolio only with respect to cash.

Finally, the issuers of each Fund each represent that the adviser and sub-adviser(s), as applicable, to each of the Funds each represent that, if the adviser and/or sub-adviser(s), as applicable, is registered as a broker-dealer or is affiliated with a broker-dealer, such adviser and/or sub-adviser(s), as applicable, has erected and will maintain a ''fire wall'' between the adviser and/or sub-adviser(s), as applicable, and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to the applicable Fund's Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable. The issuers of each Fund each also represent that any person related to the investment adviser or Investment Company who make decisions pertaining to the applicable Fund's Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable, or who have access to non-public information regarding the Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable, or changes thereto are subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable, or changes thereto.

In the event that (a) a Fund's adviser or sub-adviser(s), as applicable, becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes newly affiliated with a broker-dealer, it will implement and maintain a ''fire wall'' with respect to personnel of the broker-dealer or broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable.

Any person or entity, including any service provider for any of the Funds, who has access to non-public information regarding the Actual Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable, or changes thereto for a Fund will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio, Proxy Portfolio, or Custom Basket, as applicable, or changes thereto. Furthermore, any person or entity that is registered as a broker-dealer or affiliated with a broker-dealer, must have erected and will maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Actual Portfolio, Proxy Portfolio, or Custom Basket, as applicable.

Each Fund will comply with the above-described conditions as well as the conditions of the applicable exemptive order, and the Exchange proposes to update the listing rule for each Fund's shares accordingly. Except for the changes noted above, all other representations made in the Prior Filings for each of the Funds remain unchanged and will continue to

Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the Stance Equity ESG Large Cap Core ETF under NYSE Arca Rule 8.601–E) (the ''Stance Approval Order'').

[12] *See* Securities Exchange Act Release No. 91322 (March 15, 2021), 86 FR 14980 (March 19, 2021) (SR–NYSEArca–2021–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the T. Rowe Price U.S. Equity Research ETF under NYSE Arca Rule 8.601–E) (the ''T. Rowe Price Notice'').

[13] *See* Securities Exchange Act Release No. 91514 (April 8, 2021), 86 FR 19657 (April 14, 2021) (SR–NYSEArca–2021–23) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change List and Trade Shares of the: Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF) (the ''Fidelity Notice'').

[14] *See* Securities Exchange Act Release No. 91895 (May 13, 2021), 86 FR 27126 (May 19, 2021) (SR–NYSEArca–2021–39) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Putnam Focused Large Cap Growth ETF; Putnam Focused Large Cap Value ETF; Putnam Sustainable Future ETF; and Putnam Sustainable Leaders ETF) (the ''Putnam Notice'').

[15] *See* Securities Exchange Act Release No. 92052 (May 27, 2021), 86 FR 29810 (June 3, 2021) (SR–NYSEArca–2021–44) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the American Century Sustainable Growth ETF) (the ''American Century Notice'').

[16] *See* Securities Exchange Act Release No. 92104 (June 3, 2021), 86 FR 30635 (June 9, 2021) (SR–NYSEArca–2021–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Nuveen Santa Barbara Dividend Growth ETF, Nuveen Small Cap Select ETF, and Nuveen Winslow Large-Cap Growth ESG ETF Under NYSE Arca Rule 8.601–E) (the ''Nuveen Notice'').

[17] *See* Securities Exchange Act Release No. 92958 (September 13, 2021), 86 FR 51933 (September 17, 2021) (SR–NYSEArca–2021–77) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Nuveen Growth Opportunities ETF Under NYSE Arca Rule 8.601–E) (the ''Nuveen Growth Opportunities Notice'').

[18] *See* Securities Exchange Act Release No. 93264 (October 6, 2021), 86 FR 56989 (October 13, 2021) (SR–NYSEArca–2021–84) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Shares of the Schwab Ariel ESG ETF) (the ''Schwab Notice'').

[19] 17 CFR 243.100–243.103. Regulation Fair Disclosure provides that whenever an issuer, or any person acting on its behalf, discloses material non-public information regarding that issuer or its securities to certain individuals or entities—generally, securities market professionals, such as stock analysts, or holders of the issuer's securities who may well trade on the basis of the information—the issuer must make public disclosure of that information.

constitute continued listing requirements for each of the Funds.[20] The Funds will also continue to comply with the requirements of Rule 8.601–E. The Funds each represent that that [sic] are currently in compliance with Rule 8.601–E, as amended by the Custom Basket Approval Order, and will continue to comply with all requirements of Rule 8.601–E, as amended by the Custom Basket Approval Order.

The Natixis Model Funds

The Natixis U.S. Equity Opportunities ETF, Natixis Vaughan Nelson Select ETF, and Natixis Vaughan Nelson Mid Cap ETF (the ''Natixis Funds'') are series of the Natixis ETF Trust II. The Natixis ETF Trust II and NYSE Group, Inc. filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Prior Natixis Application'').[21] On December 10, 2019, the Commission issued an order under the 1940 Act granting the exemptions requested in the Prior Natixis Application (the ''Prior Natixis Exemptive Order'').[22]

The American Century Mid Cap Growth Impact ETF, American Century Sustainable Equity ETF, and American Century Sustainable Growth ETF (the ''American Century Funds'') are series of the American Century ETF Trust. The American Century ETF Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''American Century Application'').[23] On May 12, 2020, the Commission issued an order under the 1940 Act granting the exemptions requested in the American Century Application (the ''American Century Exemptive Order'').[24] The American Century Application and American Century Exemptive Order incorporate by reference the terms and conditions of the Prior Natixis Exemptive Order, as such order may be amended from time to time.

The Nuveen Dividend Growth ETF, Nuveen Small Cap Select ETF, Nuveen Winslow Large-Cap Growth ESG ETF, and Nuveen Growth Opportunities ETF (the ''Nuveen Funds'') are series of the Nushares ETF Trust. The Nushares ETF Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Nuveen Application'').[25] On May 4, 2021, the Commission issued an order under the 1940 Act granting the exemptions requested in the Nuveen Application (the ''Nuveen Exemptive Order'').[26] The Nuveen Application and Nuveen Exemptive Order incorporate by reference the terms and conditions of the Prior Natixis Exemptive Order, as such order may be amended from time to time.

The Schwab Ariel ESG ETF (the ''Schwab Fund'') is a series of the Schwab Strategic Trust. The Schwab Strategic Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Schwab Application'').[27] On July 7, 2021, the Commission issued an order under the 1940 Act granting the exemptions requested in the Schwab Application (the ''Schwab Exemptive Order'').[28] The Schwab Application and Schwab Exemptive Order incorporate by reference the terms and conditions of the Prior Natixis Exemptive Order, as such order may be amended from time to time.

Under the Prior Natixis Exemptive Order (and, accordingly, the exemptive orders described above that incorporate the terms and conditions of the Prior Natixis Exemptive Order), each of the Natixis Funds, American Century Funds, Nuveen Funds, and the Schwab Fund (collectively, the ''Natixis Model Funds'') is required to publish a Proxy Portfolio, which is designed to closely track its daily performance but will not be a Fund's Actual Portfolio. The Prior Natixis Application stated that a Natixis Model Fund's Proxy Portfolio would be designed to reflect the economic exposures and risk characteristics of such fund's actual holdings on each trading day, which would be achieved by performing an analysis of such fund's Actual Portfolio (the ''Factor Model''). Each Natixis Model Fund would have a universe of securities (the ''Model Universe'') that would be used to generate its Proxy Portfolio. The Model Universe would be comprised solely of securities that a Natixis Model Fund can purchase and would be a financial index or stated portfolio of securities from which a Natixis Model Fund's investments would be selected. The results of the Factor Model analysis of a Natixis Model Fund's Actual Portfolio would then be applied to such fund's Model Universe. The daily rebalanced Proxy Portfolio would then be generated as a result of this Model Universe analysis with the Proxy Portfolio being a small sub-set of the Model Universe. The Factor Model would be applied to both the Actual Portfolio and the Model Universe to construct a Natixis Model Fund's Proxy Portfolio that performs in a manner substantially identical to the performance of its Actual Portfolio. Investments made by the Natixis Model Funds will comply with the conditions set forth in the Prior Natixis Application and the Prior Natixis Exemptive Order.[29]

On August 31, 2020, and as amended on November 16, 2020 and December 8, 2020, the Natixis ETF Trust II sought to amend the Prior Natixis Exemptive Order (the ''Updated Natixis Application'') to enable the Natixis Funds to use Creation Baskets [30] that include instruments that are not in the Proxy Portfolio, or are included in the Proxy Portfolio but in different weightings (*i.e.,* for purposes of this filing, Custom Baskets).[31] On February 9, 2021, the Commission issued an order permitting the Natixis Funds to use Custom Baskets that include instruments that are not included, or are included with different weightings, in a Natixis Model Fund's Proxy Portfolio (the ''Updated Natixis Order'').[32]

The Exchange thus proposes to update the listing rules for each of the Natixis Model Funds to reflect the terms and conditions of the Updated Natixis Order. Specifically, the Exchange proposes to reflect that each of the Natixis Model Funds will comply with the terms of the Updated Natixis Application and the Updated Natixis Order and, accordingly, are permitted to use Custom Baskets that include instruments that are not included, or are

[20] *See* notes 7–18, *supra.*

[21] *See* Investment Company Act Release No. 33684 (November 14, 2019) (File No. 812–14870).

[22] *See* Investment Company Act Release No. 33711 (December 10, 2019) (File No. 812–14870).

[23] *See* Investment Company Act Release No. 33841 (April 16, 2020) (File No. 812–15082).

[24] *See* Investment Company Act Release No. 33862 (May 12, 2020) (File No. 812–15082).

[25] *See* Investment Company Act Release No. 34243 (April 8, 2021) (File No. 812–15199).

[26] *See* Investment Company Act Release No. 34265 (May 4, 2021) (File No. 812–15199).

[27] *See* Investment Company Act Release No. 34298 (June 11, 2021) (File No. 812–15216).

[28] *See* Investment Company Act Release No. 34323 (July 7, 2021) (File No. 812–15216).

[29] *See* Natixis Approval Order, *supra* note 4; Natixis Vaughan Approval Order, *supra* note 10; American Century Approval Order, *supra* note 9; American Century Notice, *supra* note 15; Nuveen Notice, *supra* note 16; Nuveen Growth Opportunities Notice, *supra* note 17; Schwab Notice, *supra* note 18.

[30] Pursuant to the Prior Natixis Exemptive Order and the exemptive orders described above that incorporate the terms and conditions of the Prior Natixis Exemptive Order, a Creation Basket with respect to the Natixis Model Funds consists of the instruments that purchasers would deposit and that shareholders would receive upon purchasing or redeeming shares of the funds.

[31] *See* Investment Company Act Release No. 34171 (January 12, 2021) (File No. 812–15157).

[32] *See* Investment Company Act Release No. 34192 (February 9, 2021) (File No. 812–15157).

included with different weightings, in a Natixis Model Fund's Proxy Portfolio.

The T. Rowe Price Model Funds

Shares of the T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF, and T. Rowe Price U.S. Equity Research ETF (the ''T. Rowe Funds'') are issued by T. Rowe Price Exchange-Traded Funds, Inc. T. Rowe Price Exchange-Traded Funds, Inc. filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Prior T. Rowe Application'').[33] On December 10, 2019, the Commission issued an order under the 1940 Act granting the exemptions requested in the Prior T. Rowe Application (the ''Prior T. Rowe Exemptive Order'').[34]

Under the Prior T. Rowe Exemptive Order, the T. Rowe Funds are required to publish a Proxy Portfolio, which is a basket of securities and cash that, while different from a T. Rowe Fund's portfolio, is designed to closely track its daily performance. The Prior T. Rowe Application stated that each T. Rowe Fund's Proxy Portfolio will be determined such that at least 80% of its total assets will overlap with the portfolio weightings of such fund. Investments made by the T. Rowe Funds will comply with the conditions set forth in the Prior T. Rowe Application and the Prior T. Rowe Exemptive Order.[35]

On February 4, 2021, and as amended on March 30, 2021, T. Rowe Price Exchange-Traded Funds, Inc. sought to amend the Prior T. Rowe Exemptive Order (the ''Updated T. Rowe Application'') to permit use of Creation Baskets[36] that include instruments that are not included, or are included with different weightings, in a T. Rowe Fund's Proxy Portfolio (*i.e.,* for purposes of this filing, Custom Baskets).[37] On May 18, 2021, the Commission issued an amended order permitting the T. Rowe Funds to use Custom Baskets that include instruments that are not included, or are included with different weightings in a T. Rowe Fund's Proxy Portfolio (the ''Updated T. Rowe Order'').[38]

The Exchange thus proposes to update the listing rules for the T. Rowe Funds to reflect the terms and conditions of the Updated T. Rowe Order. Specifically, the Exchange proposes to reflect that the T. Rowe Funds will comply with the terms of the Updated T. Rowe Application and the Updated T. Rowe Order and, accordingly, are permitted to use Custom Baskets that include instruments that are not included, or are included with different weightings, in a T. Rowe Fund's Proxy Portfolio.

The Fidelity Model Funds

Shares of the Fidelity Sustainability U.S. Equity ETF and Fidelity Women's Leadership ETF (the ''Fidelity Funds'') are issued by the Fidelity Covington Trust. Fidelity Beach Street Trust (''Beach Street''), Fidelity Management & Research Company (''FMR''), and Fidelity Distributors Corporation (''FDC'') filed a ninth amended application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Prior Fidelity Application'').[39] On December 10, 2019, the Commission issued an order (the ''Prior Fidelity Exemptive Order'') under the 1940 Act granting the relief sought in the Application.[40] The Fidelity Funds are subject to the relief set forth in the Prior Fidelity Exemptive Order because FMR is the investment adviser to the Fidelity Funds.

The Putnam Sustainable Future ETF, Putnam Sustainable Leaders ETF, Putnam Focused Large Cap Growth ETF, and Putnam Focused Large Cap Value ETF (the ''Putnam Funds'') are series of the Putnam ETF Trust. The Putnam ETF Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Putnam Application'').[41] On May 10, 2021, the Commission issued an order under the 1940 Act granting the exemptions requested in the Putnam Application (the ''Putnam Exemptive Order'').[42] The Putnam Application and Putnam Exemptive Order incorporate by reference the terms and conditions of the Prior Fidelity Exemptive Order, as such order may be amended from time to time.

Under the Prior Fidelity Exemptive Order, each of the Fidelity Funds and Putnam Funds (collectively, the ''Fidelity Model Funds'') is required to publish a Proxy Portfolio that is a basket of securities and cash that, while different from a fund's portfolio, is designed to closely track its daily performance. Such Proxy Portfolio is comprised of (1) select recently disclosed portfolio holdings (''Strategy Components''); (2) liquid ETFs that convey information about the types of instruments in which the fund invests that are not otherwise fully represented by Strategy Components; and (3) cash and cash equivalents. Investments made by the Fidelity Model Funds will comply with the conditions set forth in the Prior Fidelity Application and the Prior Fidelity Exemptive Order.[43]

On October 30, 2020, and as amended on April 2, 2021, June 11, 2021, and June 30, 2021, Beach Street, FMR, FDC, and Fidelity Covington Trust sought to amend the Prior Fidelity Exemptive Order (the ''Updated Fidelity Application'') to permit the use of Creation Baskets[44] that include instruments that are not included, or are included with different weightings, in a fund's Proxy Portfolio (*i.e.,* for purposes of this filing, Custom Baskets). On August 5, 2021, the Commission issued an order granting the relief requested (the ''Updated Fidelity Order'').

The Exchange thus proposes to update the listing rules for the Fidelity Model Funds to reflect the terms and conditions of the Updated Fidelity Order. Specifically, the Exchange proposes to reflect that the Fidelity Model Funds will comply with the terms of the Updated Fidelity Application and the Updated Fidelity Order and, accordingly, are permitted to use Custom Baskets that include instruments that are not included, or are included with different weightings, in a Fidelity Model Fund's Proxy Portfolio.

Stance Equity ESG Large Cap Core ETF

Shares of the Stance Equity ESG Large Cap Core ETF (the ''Stance Fund'' or ''Blue Tractor Model Fund'') are issued by The RBB Fund, Inc. The RBB Fund, Inc. filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the

[33] *See* Investment Company Act Release No. 33685 (November 14, 2019) (File No. 812–14214).

[34] *See* Investment Company Act Release No. 33713 (December 10, 2019) (File No. 812–14214).

[35] *See* T. Rowe Price Approval Order, *supra* note 8; T. Rowe Price Notice, *supra* note 12.

[36] Pursuant to the Prior T. Rowe Exemptive Order, a Creation Basket with respect to the T. Rowe Funds consists of the instruments that purchasers would deposit and that shareholders would receive upon purchasing or redeeming shares of the funds.

[37] *See* Investment Company Act Release No. 34248 (April 22, 2021) (File No. 812–15197).

[38] *See* Investment Company Act Release No. 34272 (May 18, 2021) (File No. 812–15197).

[39] *See* Investment Company Act Release No. 33683 (November 14, 2019) (File No. 812–14364).

[40] *See* Investment Company Act Release No. 33712 (December 10, 2019) (File No. 812–14364).

[41] *See* Investment Company Act Release No. 34245 (April 15, 2021) (File No. 812–15203).

[42] *See* Investment Company Act Release No. 34266 (May 10, 2021) (File No. 812–15203).

[43] *See* Fidelity Notice, *supra* note 13; Putnam Notice, *supra* note 14.

[44] Pursuant to the Prior Fidelity Exemptive Order, a Creation Basket with respect to the Fidelity Model Funds consists of the instruments that purchasers would deposit and that shareholders would receive upon purchasing or redeeming shares of the funds.

''RBB Application'').[45] On February 26, 2021, the Commission issued an order (the ''RBB Exemptive Order'') under the 1940 Act granting the exemptions requested in the RBB Application.[46] The RBB Application and RBB Exemptive Order incorporate by reference the terms and conditions of the exemptive order granted to Blue Tractor ETF Trust and Blue Tractor Group, LLC, as such order may be amended from time to time (the ''Prior Blue Tractor Exemptive Order'').[47]

Under the Prior Blue Tractor Exemptive Order and thus the RBB Exemptive Order, the Stance Fund is required to publish a Proxy Portfolio that is a basket of securities and cash that, while different from the fund's portfolio, is designed to closely track its daily performance. Specifically, each day, a proprietary algorithmic process will be applied to the Stance Fund's portfolio to generate a basket of securities and cash the performance of which is designed to closely track the daily performance of the fund's portfolio. Investments made by the Stance Fund will comply with the conditions set forth in the RBB Exemptive Order and the Prior Blue Tractor Exemptive Order.[48]

On September 18, 2020, and as amended on January 19, 2021, Blue Tractor ETF Trust and Blue Tractor Group, LLC sought to amend the Prior Blue Tractor Exemptive Order (the ''Updated Blue Tractor Application'') to permit use of Creation Baskets [49] that include instruments that are not included, or are included with different weightings, in a fund's Proxy Portfolio (*i.e.,* for purposes of this filing, Custom Baskets).[50] On March 9, 2021, the Commission issued an amended order that, among other things, permits the use of Custom Baskets that include instruments that are not included, or are included with different weightings in a fund's Proxy Portfolio (the ''Updated Blue Tractor Order'').[51]

The Exchange thus proposes to update the listing rule for the Stance Fund to reflect the terms and conditions of the Updated Blue Tractor Order. Specifically, the Exchange proposes to reflect that the Stance Fund will comply with the terms of the Updated Blue Tractor Application and the Updated Blue Tractor Order and, accordingly, are permitted to use Custom Baskets that include instruments that are not included, or are included with different weightings, in the Stance Fund's Proxy Portfolio.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[52] in general, and furthers the objectives of Section 6(b)(5) of the Act,[53] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would permit each of the Funds to use Custom Baskets, to the extent consistent with their applicable exemptive relief and in accordance with amended NYSE Arca Rule 8.601–E. The Exchange believes that the proposal, which would permit the Funds to use Custom Baskets that include instruments that are not included, or are included with different weightings, in a Fund's Proxy Portfolio raises no novel issues under the Act.[54] In addition, the Funds' use of Custom Baskets would be consistent with, and contemplated by, amended Rule 8.601–E, and the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and, in general, protect investors and the public interest because, to the extent the Funds wish to utilize Custom Baskets, the Funds will continue to be required to meet the initial and continued listing criteria set forth in Rule 8.601–E.

The proposed rule change is also designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest because, as noted above, all other representations made in the prior filings for the Funds remain unchanged and will continue to constitute continuing listing requirements for the Funds.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[55] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed rule change reflects amendments to the exemptive orders applicable to the Funds and would thus permit the Funds to operate consistent with their exemptive relief. The Exchange does not believe that the proposed change imposes any burden on competition, and, to the extent that the proposed rule change would continue to permit listing and trading of the Funds, the Exchange believes that the proposal could promote competition among various ETF products, to the benefit of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [56] and Rule 19b–4(f)(6) thereunder.[57]

[45] *See* Investment Company Act Release No. 34189 (February 5, 2021) (File No. 812–15165).

[46] *See* Investment Company Act Release No. 34215 (February 26, 2021) (File No. 812–15165).

[47] *See* Investment Company Act Release No. 34221 (March 8, 2021) (File No. 812–15162). The Prior Blue Tractor Exemptive Order was granted in response to an application filed by Blue Tractor ETF Trust and Blue Tractor Group, LLC for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Prior Blue Tractor Application''). *See* Investment Company Act Release Nos. 33682 (November 14, 2019) (Prior Blue Tractor Application) and 33710 (December 10, 2019) (Prior Blue Tractor Exemptive Order) (File No. 812–14625).

[48] *See* Stance Approval Order, *supra* note 11.

[49] Pursuant to the Prior Blue Tractor Exemptive Order and the RBB Exemptive Order, a Creation Basket with respect to the Stance Fund consists of the instruments that purchasers would deposit and that shareholders would receive upon purchasing or redeeming shares of the fund.

[50] *See* Investment Company Act Release No. 34194 (February 10, 2021) (File No. 812–15162).

[51] *See* Investment Company Act Release No. 34221 (March 9, 2021) (File No. 812–15162).

[52] 15 U.S.C. 78f(b).

[53] 15 U.S.C. 78f(b)(5).

[54] *See* note 5, *supra.*

[55] 15 U.S.C. 78f(b)(8).

[56] 15 U.S.C. 78s(b)(3)(A).

[57] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to

A proposed rule change filed under Rule 19b–4(f)(6) [58] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[59] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may take effect upon filing. The Commission notes that each Fund seeking to use Custom Baskets pursuant to this rule change represents that it is currently in compliance with Rule 8.601–E, as amended by the Custom Basket Approval Order, and will continue to comply with all requirements of Rule 8.601–E, as amended by the Custom Basket Approval Order. In addition, the Exchange represents that all other representations made in the prior filings for the Funds remain unchanged and will continue to constitute continuing listing requirements for the Funds. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues.[60] Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.[61]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2022–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–30 and should be submitted on or before June 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

J. Matthew DeLesDernier,

Assistant Secretary.

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give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[58] 17 CFR 240.19b–4(f)(6).

[59] 17 CFR 240.19b–4(f)(6)(iii).

[60] *See* the Custom Basket Approval Order, *supra* note 5. *See also* Securities Exchange Act Nos. 93546 (November 9, 2021) 86 FR 63429 (November 16, 2021) (SR–CboeBZX–2021–075) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Reflect a Modification to the Permitted Components of the Tracking Baskets of the Invesco Real Assets ESG ETF and Invesco US Large Cap Core ESG ETF).

[61] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[62] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 11752]

30-Day Notice of Proposed Information Collection: Statement of Registration

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to June 27, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, who may be reached at *BattistaAL@state.gov* or 202–663–3136.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Registration.
- *OMB Control Number:* 1405–0002.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* DS–2032.
- *Respondents:* Respondents are any person/s who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles.
- *Estimated Number of Respondents:* 14,800.
- *Estimated Number of Responses:* 17,688.
- *Average Time per Response:* 1 hour to complete the registration.
- *Total Estimated Burden Time:* 17,688 hours.
- *Frequency:* Annually, with amendments as necessary.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Pursuant to Part 122 of the International Traffic in Arms Regulation (ITAR), and section 38 of the Arms Export Control Act, 22 U.S.C. 2778, any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles or furnishing defense services is required to register with the Department of State, Directorate of Defense Trade Controls (DDTC). Pursuant to Part 129 of the ITAR, any U.S. person wherever located, and any foreign person located in the United States or otherwise subject to the jurisdiction of the United States, who engages in the business of brokering activities, is required to register with DDTC. DDTC uses the information provided by registrants to meet the mandates described in Part 122 and Part 129 of the ITAR. As appropriate, such information may be shared with other U.S. Government entities. This information is currently used in the review and action on registration requests and to ensure compliance with defense trade laws and regulations.

Methodology

Statement of Registration submissions are made via a completed DS–2032 which may be accessed from DDTC's website and submitted electronically.

Michael F. Miller,

Deputy Assistant Secretary, PM/DDTC, Department of State.

[FR Doc. 2022–11483 Filed 5–26–22; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. AB 314 (Sub-No. 9X)]

Chicago Central & Pacific Railroad Company—Abandonment Exemption—in Black Hawk County, Iowa

Chicago Central & Pacific Railroad Company (CCP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 0.08-mile segment of rail line, totaling approximately 419 feet, situated from approximately 100 feet east of the CCP crossing with 11th Street at the location of the point of switch turnout through and including 51 feet of track in the 11th Street crossing and continuing west to the end of the line approximately 268 feet, in Waterloo, Black Hawk County, Iowa (the Line). The Line traverses U.S. Postal Service Zip Code 50703.

CCP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line that cannot be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] this exemption will be effective on June 26, 2022, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 6, 2022.[3] Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by June 16, 2022.

All pleadings, referring to Docket No. AB 314 (Sub-No. 9X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CCP's representative, Audrey E. Lane, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CCP has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by June 3, 2022. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CCP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CCP's filing of a notice of consummation by May 27, 2023, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Decided: May 23, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2022–11400 Filed 5–26–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36594]

Texas Coastal Bend Railroad, L.L.C.—Change in Operator Exemption—Corpus Christi Terminal Railroad, Inc.

Texas Coastal Bend Railroad, L.L.C. (TCBR), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to assume operation of approximately 12.0 miles of rail line owned by the Port of Corpus Christi Authority of Nueces County, Tex. (the Port), located on the north and south sides of the Inner Harbor of the Corpus Christi Ship Channel, which runs parallel with the south shoreline of Nueces Bay (the Line). Incidental to the proposed operation of the Port-owned Line, TCBR will acquire overhead trackage rights over a connecting Union Pacific Railroad Company (UP) line extending between approximately UP milepost 140.5 near the west leg of the Fulton Wye Connection and approximately UP milepost 149.0, all in Nueces County, Tex. Corpus Christi Terminal Railroad, Inc. (CCTR) currently operates the Line under a lease with the Port and has done so since 1997. *See Corpus Christi Terminal R.R.—Lease & Operation Exemption—Port of Corpus Christi Auth. of Nueces Cnty., Tex.,* FD 33436 (STB served Aug. 14, 1997).

According to the verified notice, TCBR has entered into an agreement with the Port under which TCBR will replace CCTR as the common carrier on the Line. TCBR states that CCTR does not object to the proposed change in common carrier operator on the Line. Based on projected annual revenues for the Line, TCBR expects to become a Class III rail carrier after consummation of the proposed transaction.

This transaction is related to a concurrently filed verified notice in *Watco Holdings—Continuance in Control Exemption—Texas Coastal Bend Railroad,* Docket No. FD 36595, in which Watco Holdings, Inc., seeks to continue in control of TCBR upon TCBR's becoming a Class III rail carrier.

As required under 49 CFR 1150.33(h)(1), TCBR certifies that the agreements governing this transaction do not include any provision or agreement that may limit future interchange with a third-party connecting carrier.

TCBR certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class I or Class II rail carrier but also states that it expects its annual revenues to exceed $5 million following the transaction. Pursuant to 49 CFR 1150.32(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. TCBR states that it complied with the advance notice posting requirements of 49 CFR 1150.32(e) on March 21, 2022, and that TCBR has been advised that no labor union represents CCTR employees and that the Port has no employees that conduct rail operations on the Line.

Under 49 CFR 1150.32(b), a change in operator exemption requires that notice be given to shippers. TCBR certifies that it has provided notice of the proposed change in operator to the shippers on the Line.

The transaction may be consummated on or after June 12, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 3, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36594, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on TCBR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to TCBR, this action is categorically excluded from historic preservation reporting requirements under 49 CFR 1105.8(b) and from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

Decided: May 24, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2022–11464 Filed 5–26–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36595]

Watco Holdings, Inc.—Continuance in Control Exemption—Texas Coastal Bend Railroad, L.L.C.

Watco Holdings, Inc. (Watco), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Texas Coastal Bend Railroad, L.L.C. (TCBR), a noncarrier controlled by Watco, upon TCBR's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Texas Coastal Bend Railroad—Change in Operator Exemption—Corpus Christi Terminal Railroad,* Docket No. FD 36594, in which TCBR seeks to assume operation of approximately 12.0 miles of rail line owned by the Port of Corpus Christi Authority of Nueces County, Tex. (the Port), located on the north and south sides of the Inner Harbor of the Corpus Christi Ship Channel, along with incidental trackage rights.

The transaction may be consummated on or after June 12, 2022, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice, Watco currently controls 42 Class III railroads and one Class II railroad, collectively operating in 28 states. For a complete list of these rail carriers and the states in which they operate, see the Appendix to Watco's May 13, 2022 verified notice of exemption, available at *www.stb.gov.*

Watco represents that: (1) The rail line to be operated by TCBR does not connect with the rail lines of any of the rail carriers currently controlled by Watco; (2) this transaction is not part of a series of anticipated transactions that would connect TCBR with any railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction

involves the control of one Class II and one or more Class III rail carriers, the transaction is subject to the labor protection requirements of 49 U.S.C. 11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad,* 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 3, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36595, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Watco's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to Watco, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: May 24, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2022–11463 Filed 5–26–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Property at Owensboro-Daviess County Regional Airport, Owensboro, KY (OWB)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by the Owensboro-Daviess County Airport Board, to release land (10.76 acres) at Owensboro—Daviess County Regional Airport (OWB) from federal obligations.

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

ADDRESSES: Comments on this notice may be emailed to the FAA at the following email address: FAA/Memphis Airports District Office, Attn: Jillian M. Thackston, Community Planner, *Jillian.M.Thackston@faa.gov.*

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Tristan Durbin, Airport Director, Owensboro-Daviess County Airport Board at the following address: 2200 Airport Drive, Owensboro, KY 42301.

FOR FURTHER INFORMATION CONTACT: Jillian M. Thackston, Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600, Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482, (901) 322–8188, or *Jillian.M.Thackston@faa.gov.* The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for disposal at Owensboro-Daviess County Regional Airport, 2200 Airport Drive, Owensboro, KY 42301, under the provisions of 49 U.S.C. 47107(h)(2). The FAA determined that the request to release property at Owensboro-Daviess County Regional Airport (OWB) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of these properties does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The request consists of the following:

The Property consists of approximately 10.76 acres and is located in the western portion of the Airport. These parcels are labeled on the current Exhibit A as Parcel 20 (7.93 acres), Parcel 21 (1.93 acres), and Parcel 24A (0.90 acres). The Properties are physically located west of Runway 18/36 and east of Calhoun Road.

This request will release this property from federal obligations. This action is taken under the provisions of 49 U.S.C. 47107(h)(2).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at Owensboro-Daviess County Regional Airport (OWB).

Issued in Memphis, Tennessee on May 24, 2022.

Duane Leland Johnson,

Assistant Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2022–11436 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0716]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Changes in Permissible Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves information used to issue special flight authorizations for non-revenue transports and non-transport jet operations of Stage 2 airplanes at U.S. airports. Only a minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of those enumerated by law. This collection is required under the Airport Noise and Capacity Act of 1990 (as amended by Pub. L. 106–113) and the FAA Modernization and Reform Act of 2012.

DATES: Written comments should be submitted by July 26, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Sandy Liu, 800 Independence Ave. SW, Washington, DC 20591, Attn: AEE–100

By fax: 202–267–5594

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency

will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Sandy Liu by email at: *sandy.liu@faa.gov;* phone: 202–267–4748.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0652.

Title: Changes in Permissible Stage 2 Airplane Operations.

Form Numbers: FAA Form 1050–8.

Type of Review: Renewal of an information collection.

Background: This collection is required under the Airport Noise and Capacity Act of 1990 (as amended by Pub. L. 106–113) and the FAA Modernization and Reform Act of 2012. This information is used by the FAA to issue special flight authorizations for nonrevenue operations of transports and nontransport jet Stage 2 airplanes at U.S. airports. Only minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of the ones enumerated in the law.

Respondents: Approximately 30 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 7.5 hours.

Issued in Washington, DC, on May 24, 2022.

Sandy Liu,

Engineer, Noise Division, Office of Environment and Energy, Noise Division, AEE–100.

[FR Doc. 2022–11447 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2022–0042]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 5, 2022, Goose Lake Railway, LLC (GOOS), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240 (Qualification and Certification of Locomotive Engineers) and part 242 (Qualification and Certification of Conductors). FRA assigned the petition Docket Number FRA–2022–0042.

Specifically, GOOS requests relief as part of its proposed implementation of and participation in FRA's Confidential Close Call Reporting System (C^{3}RS) Program. GOOS seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in §§ 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2); and 242.407. The C^{3}RS Program encourages certified operating crew members to report close calls and protects the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^{3}RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by July 11, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022–11375 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0120]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated April 8, 2022, CSX Transportation (CSX) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant FRA Docket Number is FRA–2009–0120.

Specifically, CSX requested an extension of relief from § 236.377, *Approach locking;* § 236.378, *Time locking;* § 236.379, *Route locking;* § 236.380, *Indication locking;* and § 236.281, *Traffic locking,* to extend the periodic testing schedules from ''at least once every 2 years'' to ''at least once every 4 years'' after initial testing has been performed. Additionally, CSX requested to extend relief from § 236.109, *Time releases, timing relays and timing devices,* to extend the periodic testing schedules from ''at least once every 12 months'' to ''at least once every 4 years'' for internal variable timers. The relief applies at interlocking control points and other signal locations controlled by solid-state microprocessor-based equipment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by July 11, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022–11373 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2016–0086]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated April 4, 2022, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) to make permanent a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices), and 229 (Railroad Locomotive Safety Standards). The relevant FRA Docket Number is FRA–2016–0086.

Specifically, BNSF requests to transition the current test waiver in this docket to a permanent waiver in which relief is granted from § 232.205(c)(1)(iii), *Class I brake test-initial terminal inspection,* and § 229.29(b), *Air brake system calibration, maintenance, and testing,* related to air flow method (AFM) indicator calibration intervals. The existing relief allows BNSF, CSX Transportation, Canadian National Railway, and Kansas City Southern Railway Company to test extending the AFM test intervals from 92 days to 184 days on locomotives equipped with the New York Air Brake CCB–II air brake systems. In support of its request, BNSF states that AFM calibration performance has been greatly improved over the lifetime of the test waiver and that the AFM test waiver committee has concluded that 184-day calibration significantly improves air brake system quality and offers additional benefits.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by July 11, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2022–11377 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2022–0037]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 25, 2022, SMS Rail Service, Inc. (SLRS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215 (Railroad Freight Car Safety Standards), 223 (Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses), and 224 (Reflectorization of Rail Freight Rolling Stock). FRA assigned the petition Docket Number FRA–2022–0037.

Specifically, SLRS requested a special approval pursuant to § 215.203, *Restricted cars,* for one caboose, SLRS 92857, that is more than 50 years from the date of original construction. SLRS also requests relief from § 215.303, *Stenciling of restricted cars;* § 223.13, *Requirements for existing cabooses;* and § 224.101, *General requirements.* SLRS seeks to operate the caboose for educational, tourist excursion, and limited freight service purposes. In support of its request, SLRS states that the relief would enable the cars to maintain historic integrity and that the caboose would not exceed 20 miles per hour.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://*

www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by July 11, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2022–11376 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before June 13, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC, or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 04, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
16016–M	iSi Automotive Austria GmbH	173.301, 173.302a, 173.305	To modify the special permit to authorize an additional manufacturing location. (modes 1, 2, 3, 4, 5).
20602–M	The Boeing Company	173.56(b), 173.62, 173.185(a), 173.185(b), 173.201, 173.302(a), 173.304(a), 177.848(d), 173.203.	To modify the special permit to authorize additional hazardous materials. (mode 1).
20645–M	Walmart Inc	173.159a(c)(2), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to authorize an additional packaging. (modes 1, 3).
20998–M	Daicel Safety Systems Americas, Inc.	173.301(a)(1), 173.302(a)(1), 178.65(c)(3).	To modify the special permit to authorize an additional airbag inflator design. (modes 1, 2, 3, 4).

[FR Doc. 2022–11407 Filed 5–26–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0004]

Pipeline Safety: Request for Special Permit; Tennessee Gas Pipeline Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit renewal received from Tennessee Gas Pipeline Company, LLC (TGP). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant

or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a renewal request of a special permit issued on September 1, 2016, to TGP, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines, and 49 CFR 192.5(c): Class locations.

The September 1, 2016, special permit was granted for 192 special permit segments and approximately 49.00 miles of TGP natural gas transmission pipeline system located in the states of Kentucky, Louisiana, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia. This special permit renewal is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for 162 gas transmission special permit segments totaling 194,837.38 feet (approximately 36.901 miles). The 30 special permit segments that are not included in this notice nor the below table now meet the requirements of either 49 CFR 192.611(a) or 192.619(a) for a Class 3 location. The 162 renewal special permit segments, which have changed from a Class 1 to Class 3 location, are as follows:

Renewal special permit segment No.	County or parish, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
1	Madison, KY	24	100–1	526.27	1971	750
2	Madison, KY	24	100–1	12.70	1971	750
3	Madison, KY	24	100–1	168.34	1971	750
4	Bath, KY	26	100–2	606.60	1948	750
6	Bath, KY	26	100–2	1,515.30	1948	750
7	Bath, KY	26	100–2	344.20	1948	750
8	Rowan, KY	26	100–2	252.39	1948	750
10	Madison, KY	30	100–3	824.32	1950	750
11	Madison, KY	30	100–3	536.30	1950	750
12	Madison, KY	30	100–3	806.72	1950	750
13	Rowan, KY	26	100–3	1,054.07	1949	750
14	Rowan, KY	26	100–3	338.70	1949	750
15	Rowan, KY	26	100–3	912.96	1949	750
17	Boyd, KY	26	100–3	655.37	1950	790
18	Boyd, KY	26	100–3	494.40	1950	790
19	Madison, KY	30	100–4	521.39	1951	750
20	Madison, KY	30	100–4	607.56	1951	750
21	Madison, KY	36	800–2	1,690.82	1969	936
23	Sabine, LA	24	100–1	598.40	1944	750
24	Natchitoches, LA	24	100–1	1,118.30	1944	750
27	Sabine, LA	30	100–2	272.20	1949	750
28	Natchitoches, LA	31	100–2	1,121.16	1948	604

Renewal special permit segment No.	County or parish, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
29	Ouachita, LA	26	100–2	920.80	1947	750
31	Sabine, LA	30	100–3	740.50	1951	750
32	Natchitoches, LA	30	100–3	1,772.33	1951	750
33	Ouachita, LA	30	100–3	907.80	1949	750
34	Ouachita, LA	30	100–4	1,414.14	1951	750
36	Vermillion, LA	24	500–1	872.70	1956	973
37	Vermillion, LA	24	500–1	3,005.66	1956	973
38	IBERIA, LA	24	500–1	858.45	1956	973
41	Franklin, LA	30	800–1	102.57	1954	936
42	Franklin, LA	30	800–1	1,259.31	1954	936
43	Franklin, LA	30	800–1	75.63	1954	936
44	Washington, MS	24	100–1	731.04	1944	750
45	Washington, MS	24	100–1	964.23	1944	750
46	Washington, MS	26	100–2	112.40	1948	750
47	Washington, MS	26	100–2	2,073.94	1948	750
48	Benton, MS	30	100–3	1,198.98	1949	750
49	Benton, MS	30	100–4	1,234.46	1952	750
50	Hancock, MS	30	500–1	1,471.05	1959	936
51	Forrest, MS	30	500–1	482.40	1959	936
52	Forrest, MS	30	500–1	1,370.49	1959	936
53	Lauderdale, MS	30	500–1	1,474.90	1959	936
55	Lauderdale, MS	30	500–1	257.20	1959	936
58	Lowndes, MS	30	500–1	959.21	1959	936
59	Lowndes, MS	30	500–1	1,581.69	1959	936
60	Hancock, MS	36	500–2	1,488.68	1965	936
61	Forrest, MS	36	500–2	1,909.29	1966	936
62	Lauderdale, MS	36	500–2	1,439.84	1966	936
64	Lowndes, MS	36	500–2	1,585.26	1964	936
65	Hancock, MS	36	500–3	1,347.37	1972	936
66	Sussex, NJ	24	300–1	2,953.04	1955	1170
67	Sussex, NJ	24	300–1	638.57	1955	1170
68	Sussex, NJ	24	300–1	471.55	1955	1170
69	Sussex, NJ	24	300–1	1,121.11	1955	1170
70	Sussex, NJ	24	300–1	811.71	1955	1170
71	Sussex, NJ	24	300–1	373.70	1955	1170
72	Sussex, NJ	24	300–1	1,729.51	1955	1170
75	Ontario, NY	24	200–1	654.33	1951	760
77	Madison, KY	24	200–1	1,478.51	1951	760
79	Albany, NY	24	200–1	1,153.88	1951	760
80	Albany, NY	24	200–1	1,059.96	1951	760
82	Carroll, OH	26	200–1	2,658.16	1950	790
83	Columbiana, OH	26	200–1	2,044.66	1950	790
84	Columbiana, OH	26	200–1	1,270.10	1950	790
85	Columbiana, OH	26	200–1	1,382.31	1950	790
86	ATHENS, OH	26	200–2	1,513.05	1952	790
88	Carroll, OH	26	200–2	2,680.73	1952	790
89	Columbiana, OH	26	200–2	1,296.36	1954	790
90	Carroll, OH	26	200–3	1,081.17	1956	790
92	Carroll, OH	26	200–3	974.20	1956	790
94	Carroll, OH	36	200–4	2,648.75	1963	790
95	Columbiana, OH	36	200–4	1,950.62	1963	790
96	Columbiana, OH	36	200–4	1,248.52	1963	790
97	Columbiana, OH	36	200–4	1,358.28	1963	790
98	Lawrence, PA	26	200–1	1,935.75	1950	790
99	Mercer, PA	24	300–1	839.87	1953	877
100	Mercer, PA	24	300–1	491.70	1953	877
101	Mercer, PA	30	300–2	875.56	1965	877
102	Mercer, PA	30	300–2	573.79	1965	877
103	Dickson, TN	24	100–1	533.33	1944	750
104	Cheatham, TN	24	100–1	2,782.53	1944	750
105	Cheatham, TN	24	100–1	1,490.60	1944	750
106	Cheatham, TN	24	100–1	28.61	1944	750
107	Robertson, TN	24	100–1	668.38	1944	750
108	Robertson, TN	24	100–1	1,953.93	1944	750
109	Dickson, TN	26	100–2	554.05	1948	750
110	Dickson, TN	26	100–2	177.44	1948	750
111	Lewis, TN	30	500–1	566.83	1959	936
112	Lewis, TN	30	500–1	686.45	1959	936
113	Lewis, TN	30	500–1	1,376.94	1959	936
114	Cheatham, TN	30	500–1	732.13	1959	936
115	Cheatham, TN	30	500–1	1,006.00	1959	936

Renewal special permit segment No.	County or parish, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
116	Cheatham, TN	30	500–1	757.26	1959	936
117	Cheatham, TN	30	500–1	1,332.21	1959	936
118	Cheatham, TN	30	500–1	633.98	1959	936
119	Cheatham, TN	30	500–1	994.45	1959	936
120	Cheatham, TN	30	500–1	9.90	1959	936
121	Cheatham, TN	30	500–1	1,339.84	1959	936
122	Robertson, TN	30	500–1	2,474.52	1959	936
123	Robertson, TN	30	500–1	4,358.19	1959	936
124	Robertson, TN	30	500–1	1,929.95	1959	936
125	Robertson, TN	30	500–1	3,262.84	1959	936
126	Lewis, TN	36	500–2	469.38	1964	936
127	Lewis, TN	36	500–2	738.42	1964	936
128	Cheatham, TN	36	500–2	1,318.68	1968	936
129	Cheatham, TN	36	500–2	381.21	1968	936
130	Cheatham, TN	36	500–2	420.56	1968	936
131	Cheatham, TN	36	500–2	502.70	1963	936
132	Cheatham, TN	36	500–2	16.90	1963	936
133	Cheatham, TN	36	500–2	2,062.21	1963	936
134	Robertson, TN	36	500–2	1,001.81	1965	936
135	Robertson, TN	36	500–2	1,426.43	1965	936
136	Robertson, TN	36	500–2	303.70	1965	936
137	Robertson, TN	36	500–2	3,257.08	1965	936
138	Robertson, TN	36	500–2	1,899.22	1965	936
139	Robertson, TN	36	500–2	219.10	1965	936
140	Robertson, TN	36	500–2	2,970.93	1965	936
141	Cheatham, TN	30	800–1	384.62	1954	936
142	Cheatham, TN	30	800–1	581.50	1954	936
143	Cheatham, TN	30	800–1	1,104.30	1954	936
144	Cheatham, TN	30	800–1	1,366.34	1954	936
145	Robertson, TN	30	800–1	968.97	1954	936
146	Robertson, TN	30	800–1	1,797.26	1954	936
147	Robertson, TN	30	800–1	4,253.00	1954	936
148	Robertson, TN	30	800–1	1,978.36	1954	936
149	Robertson, TN	30	800–1	3,133.48	1954	936
151	Waller, TX	24	100–1	1,677.99	1944	750
152	Harris, TX	24	100–1	753.70	1944	750
153	Sabine, TX	24	100–1	675.00	1944	750
154	Sabine, TX	24	100–1	1,539.30	1964	750
155	Sabine, TX	24	100–1	573.40	1964	750
156	Waller, TX	30	100–2	1,574.15	1948	750
157	Harris, TX	30	100–2	1,220.90	1948	750
158	Harris, TX	30	100–2	1,962.45	1948	750
159	Sabine, TX	30	100–2	2,597.70	1949	750
160	Waller, TX	30	100–3	1,531.99	1952	750
161	Waller, TX	30	100–3	1,727.52	1952	750
162	Harris, TX	30	100–3	1,024.50	1952	750
163	Harris, TX	30	100–3	217.00	1952	750
164	Harris, TX	30	100–3	1,733.65	1952	750
165	Harris, TX	30	100–3	1,101.34	1952	750
166	Sabine, TX	30	100–3	1,502.40	1964	750
169	Hidalgo, TX	24	409A–100 Donna Line	1,237.01	1950	933
171	Hidalgo, TX	24	409A–100 Donna Line	1,523.74	1950	933
172	Hidalgo, TX	24	409A–100 Donna Line	1,787.31	1950	933
173	Kanawha, WV	20	100–1	1,349.06	1984	910
174	Kanawha, WV	20	100–1	1,228.73	1984	910
175	Kanawha, WV	20	100–1	584.46	1984	910
176	Kanawha, WV	20	100–1	2,249.91	1984	936
177	Wayne, WV	24	100–2	2,657.51	1948	973
178	Putnam, WV	24	100–2	1,833.55	1948	938
181	Cabell, WV	26	100–3	438.10	1966	910
182	Putnam, WV	30	100–3	1,415.75	1972	910
183	Putnam, WV	30	100–3	891.20	1972	910
185	Harris, TX	24	100–1	1,181.70	1944	750
186	Harris, TX	24	100–1	1,351.66	1966	750
187	Kanawha, WV	24	100–2	1,233.70	1948	910
188	Cheatham, TN	30	100–4	497.50	1952	750
189	Madison, KY	30	100–4	1,342.49	1951	750
190	Madison, KY	30	100–4	242.74	1951	750
191	Lauderdale, MS	36	500–2	311.51	1963	936

The special permit renewal request, proposed special permit with conditions, draft environmental assessment (DEA), and annual report findings for pipeline integrity and reportable incidents for the above listed TGP special permit segments are available for review and public comments in Docket No. PHMSA–2016–0004. PHMSA invites interested persons to review and submit comments on the special permit renewal request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11499 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0007]

Pipeline Safety: Request for Special Permit; El Paso Natural Gas Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit renewal received from El Paso Natural Gas Company, LLC (EPNG). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail: Docket Management System:* 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: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a renewal request of a special permit issued on September 1, 2016, to EPNG, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines, and 49 CFR 192.5(c): Class locations.

The September 1, 2016, special permit was granted for 29 special permit segments totaling approximately 6.56 miles of pipeline located in the states of Arizona, New Mexico, and Texas. This special permit renewal is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for 17 gas transmission special permit segments totaling 23,662.95 feet (approximately 4.482 miles). The 12 special permit segments that are not included in this notice nor the below table now meet the requirements of either 49 CFR 192.611(a) or 192.619(a) for a Class 3 location. The 17 renewal special permit segments, which have changed from a Class 1 to Class 3 location, are as follows:

Renewal special permit segment No.	County, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
1	Cochise, AZ	26	1100	1,412.75	1947	837
2	Cochise, AZ	26	1100	3,381.29	1947	837
3	Cochise, AZ	26	1100	1,456.14	1947	837
4	Pima, AZ	26	1100	301.74	1947	809
5	Cochise, AZ	30	1103	1,448.51	1950	837
6	Coconino, AZ	24	1200	1,363.19	1950	845
13	Coconino, AZ	34	1204	2,454.82	1956	894
16	Coconino, AZ	36	1208	1,371.77	1992	845
17	San Juan, NM	24	1200	87.04	1950	845
18	San Juan, NM	24	1200	620.54	1950	845
19	San Juan, NM	24	1201	2,571.93	1966	845
21	McKinley, NM	30	1300	831.24	1954	836
25	El Paso, TX	26	1100	2,180.94	1947	809
26	El Paso, TX	30	1103	710.25	1950	809
27	El Paso, TX	30	1103	924.93	1950	809
28	El Paso, TX	30	2000	1,182.64	2003	944
29	El Paso, TX	30	2000	1,363.23	2003	944

The special permit renewal request, proposed special permit with conditions, draft environmental assessment (DEA), and annual report findings for pipeline integrity and reportable incidents for the above listed EPNG special permit segments are available for review and public comments in Docket No. PHMSA–2016–0007. PHMSA invites interested persons to review and submit comments on the special permit renewal request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11495 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0006]

Pipeline Safety: Request for Special Permit; Southern Natural Gas Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit renewal received from Southern Natural Gas Company, LLC (SNG). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
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Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

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Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by

taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

The special permit renewal request, proposed special permit with conditions, draft environmental assessment (DEA), and annual report findings for pipeline integrity and reportable incidents for the above listed SNG special permit segments are available for review and public comments in Docket No. PHMSA–2016–0006. PHMSA invites interested persons to review and submit comments on the special permit renewal request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11494 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0044]

Pipeline Safety: Request for Special Permit; Rockies Express Pipeline, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from Rockies Express Pipeline, LLC (REX). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a renewal request of a special permit issued on September 1, 2016, to SNG, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines, and 49 CFR 192.5(c): Class locations.

The September 1, 2016, special permit was granted for 26 special permit segments and approximately 5.90 miles of the SNG natural gas transmission pipeline system located in the states of Alabama, Georgia, Louisiana, and Mississippi. This special permit renewal is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for 17 gas transmission special permit segments totaling 17,864.41 feet (approximately 3.383 miles). The nine (9) special permit segments that are not included in this notice nor the below table now meet the requirements of either 49 CFR 192.611(a) or 192.619(a) for a Class 3 location. The 17 renewal special permit segments, which have changed from a Class 1 to Class 3 location, are as follows:

Renewal special permit segment No.	County or parish, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
1	Autauga, AL	30	South Main 2nd Loop Line	1,847.74	1981	1,200
3	Lee, AL	30	South Main 2nd Loop Line	512.00	1969	1,200
4	Autauga, AL	18	South Main Line	1,130.20	1951	1,200
5	Autauga, AL	24	South Main Loop Line	1,673.15	1958	1,200
6	Autauga, AL	24	South Main Loop Line	1,008.21	1958	1,200
7	Lee, AL	24	South Main Loop Line	662.00	1958	1,200
8	Lee, AL	24	South Main Loop Line	1,291.96	1958	1,200
9	Harris, GA	30	South Main 2nd Loop Line	796.04	1981	1,200
10	Harris, GA	26	South Main 2nd Loop Line	2,246.00	1967	1,200
12	Jones, GA	16	South Main Line	199.57	1953	1,200
13	Harris, GA	24	South Main Loop Line	1,027.11	1958	1,200
14	Harris, GA	20	South Main Loop Line	2,432.59	1958	1,200
15	Spalding, GA	20	Thomaston Griffin 2nd Loop Line	176.67	1981	1,200
18	East Baton Rouge, LA	20	Duck Lake Franklinton Line	704.54	1953	1,200
19	Livingston, LA	20	Duck Lake Franklinton Line	1,297.63	1953	1,200
22	East Baton Rouge, LA	24	White Castle Franklinton Loop Line	125.66	1968	1,200
26	Livingston, LA	30	White Castle Franklinton Loop Line	733.34	1970	1,200

• *Mail: Docket Management System:* 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: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

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FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from REX, which is owned and operated by Tallgrass Energy Partners, LP, seeking a waiver from the requirements of 49 CFR 192.611: Change in class location: Confirmation or revision of maximum allowable operating pressure.

This special permit is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for twenty (20) gas transmission special permit segments totaling 22,465 feet (approximately 4.252 miles) of pipeline. These special permit segments, which have changed from a Class 1 to Class 2 location and operate at a stress level of 80 percent of specified minimum yield strength, are as follows:

Special permit segment No.	County, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
S1	Buchanan, MO	42	Steele City to Turney	938	2008	1,480
S2	Macon, IL	42	Blue Mound to Bainbridge	705	2009	1,480
S3	Macon, IL	42	Blue Mound to Bainbridge	3,055	2009	1,480
S4	Douglas, IL	42	Blue Mound to Bainbridge	454	2009	1,480
S5	Douglas, IL	42	Blue Mound to Bainbridge	529	2009	1,480
S6	Douglas, IL	42	Blue Mound to Bainbridge	1,567	2009	1,480
S7	Morgan, IN	42	Bainbridge to Hamilton	239	2009	1,480
S8	Morgan, IN	42	Bainbridge to Hamilton	1,671	2009	1,480
S9	Butler, OH	42	Bainbridge to Hamilton	308	2009	1,480
S10	Butler, OH	42	Bainbridge to Hamilton	1,261	2009	1,480
S11	Butler, OH	42	Bainbridge to Hamilton	163	2009	1,480
S12	Butler, OH	42	Bainbridge to Hamilton	915	2009	1,480
S13	Warren, OH	42	Bainbridge to Hamilton	128	2009	1,480
S14	Warren, OH	42	Hamilton to Chandlersville	461	2009	1,480
S15	Pickaway, OH	42	Hamilton to Chandlersville	275	2009	1,480
S16	Fairfield, OH	42	Hamilton to Chandlersville	2,215	2009	1,480
S17	Fairfield, OH	42	Hamilton to Chandlersville	758	2009	1,480
S18	Fairfield, OH	42	Hamilton to Chandlersville	111	2009	1,480
S19	Perry, OH	42	Hamilton to Chandlersville	2,386	2009	1,480
S20	Muskingum, OH	42	Chandlersville to Clarington	4,314	2009	1,480

The special permit request, proposed special permit with conditions, and draft environmental assessment (DEA) for the above listed REX special permit segments are available for review and public comments in Docket No. PHMSA–2022–0044. PHMSA invites interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11493 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0038]

Pipeline Safety: Request for Special Permit; Colorado Interstate Gas Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from Colorado Interstate Gas Company, LLC (CIG). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail: Docket Management System:* 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: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from CIG, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, and 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines.

This special permit is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for a Class 1 to 3 location change on one (1) gas transmission special permit segment totaling 1,593.79 feet (approximately 0.302 miles) of pipeline in Adams County, Colorado. The special permit segment is on CIG's 24-inch diameter Line 0005–B Pipeline, which operates at a maximum allowable operating pressure of 850 pounds per square inch gauge and was constructed in 1978.

The special permit request, proposed special permit with conditions, and draft environmental assessment (DEA) for the above listed CIG pipeline segment is available for review and public comments in Docket No. PHMSA–2022–0038. PHMSA invites interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11497 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0034]

Pipeline Safety: Request for Special Permit; Southern Natural Gas Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from Southern Natural Gas Company, LLC (SNG). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail: Docket Management System:* 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: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from SNG, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, and 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines.

This special permit is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for four (4) gas transmission special permit segments totaling 2,166.42 feet (approximately 0.410 miles). These pipeline segments, which have changed from a Class 1 to Class 3 location, are as follows:

Special permit segment number	County, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
655	Talladega, AL	20	North Main Line	715.33	1979	719
656	Muscogee, GA	30	South Main 2nd Loop Line	275.82	1981	1,200
683	Muscogee, GA	24	South Main Loop Line	438	1958	1,200
712	Talladega, AL	20	North Main Line	737.27	1979	719

The special permit request, proposed special permit with conditions, and draft environmental assessment (DEA) for the above listed SNG special permit segments are available for review and public comments in Docket No. PHMSA–2022–0034. PHMSA invites interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11501 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0008]

Pipeline Safety: Request for Special Permit; Colorado Interstate Gas Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a

request for special permit renewal received from Colorado Interstate Gas Company, LLC (CIG). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by June 27, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail: Docket Management System:* 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: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

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FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a renewal request of a special permit issued on September 1, 2016, to CIG, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines, and 49 CFR 192.5(c): Class locations.

The September 1, 2016, special permit was granted for 16 special permit segments totaling approximately 3.58 miles of the CIG natural gas transmission pipeline system located in the states of Colorado and Wyoming. This special permit renewal is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for a Class 1 to 3 location change on eight (8) gas transmission special permit segments totaling 6,379.96 feet (approximately 1.208 miles). The eight (8) special permit segments that are not included in this notice nor the below table now meet the requirements of either 49 CFR 192.611(a) or 192.619(a) for a Class 3 location. The eight (8) renewal special permit segments, which have changed from a Class 1 to Class 3 location, are as follows:

Renewal special permit segment No.	County, state	Outside diameter (inches)	Line name	Length (feet)	Year installed	Maximum allowable operating pressure (pounds per square inch gauge)
1	Adams, CO	20	0002–A	782.61	1947	920
2	Adams, CO	20	0002–A	1,370.52	1947	920
3	Adams, CO	20	0002–B	845.14	1950	920
4	Adams, CO	20	0002–B	1,366.76	1950	920
12	Morgan, CO	20	59–A	543.60	1995	1,050
13	Morgan, CO	20	59–A	779.60	1995	1,050
14	Morgan, CO	20	59–A	82.00	1995	1,050
16	Sweetwater, WY	22	0005–A	609.73	1957	845

The special permit renewal request, proposed special permit with conditions, draft environmental assessment (DEA), and annual report findings for pipeline integrity and reportable incidents for the above listed CIG pipeline segment is available for review and public comments in Docket No. PHMSA–2016–0008. PHMSA invites interested persons to review and submit comments on the special permit renewal request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA

will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11496 Filed 5–26–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

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

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 04, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
10945–M	Structural Composites Industries LLC.	172.203(a), 172.301(c), 173.302a(a)(1), 173.304a(a)(1), 180.205.	To modify the special permit to authorize additional hazardous materials.
11180–M	Affival Inc	172.300, 172.400, 172.500, 173.1, 173.24(c).	To modify the special permit to authorize welded metal tubing and additional hazardous materials.
11379–M	ZF Passive Safety Systems US Inc.	173.301(h), 173.302(a)(1)	To modify the special permit to authorize alternative safety control measures.
16485–M	Entegris, Inc	173.302c(a), 173.302c(i)(5), 180.205(f), 180.205(g).	To modify the special permit by authorizing DOT–3AA cylinders containing adsorbed gases to be requalified by the helium proof pressure and leak test authorized by DOT–SP 13220.
20470–M	Imperial Automotive Logistics GmbH.	172.101(j)	To modify the special permit to authorize additional authorized lithium ion batteries.
21266–N	Richmond Pacific Railroad Corp.	172.203(a), 174.24, 174.26	To authorize the use of electronic shipping paper information and train consist information when hazardous materials are transported by rail.
21301–N	DGM Italia Srl	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft.
21310–M	Airbus Defence And Space GmbH.	172.101(j), 173.301(f), 173.302a(a)(1), 173.304a(a)(2).	To add cargo vessel due to destruction/grounding of Antonov air fleet.
21323–N	Canadian Pacific Railway Company.	172.203(a), 173.24, 173.26	To authorize the use of electronic shipping paper information and train consist information when hazardous materials are transported by rail.
21339–N	Department of Defense US Army Military Surface Deployment & Distribution Command.	173.27(f)(3), 173.202	To authorize the transportation in commerce of UN2030, hydrazine aqueous solution in the packaging in paragraph 7.a.
21345–N	Milliporesigma	173.225(c)(3), 173.124	To authorize the transportation in commerce of a self-reactive solid type C that has not been properly classed.
Special Permits Data—Denied			
12412–M	Circle Transport Inc	172.203(a), 172.302(c), 177.834(h).	To modify the special permit to authorize 550-gallon Intermediate Bulk Containers.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20949–M	Sigma-Aldrich, Inc	178.601(k)	To modify the special permit to remove the requirement to carry a copy of the SP aboard each vehicle, vessel or aircraft and to remove the requirement to maintain a copy of the SP at each facility offering or reoffering packages covered by the SP.
21287–N	Daikin Applied Americas Inc ..	173.307(a)(4)(iv)	To authorize the transportation in commerce of refrigerating machines, including dehumidifiers and air conditioners, and components thereof, containing 20 kg (44 pounds) or less of GHS Category 1B or ASHRAE A2L gases in the same manner as A1 gases, per 49 CFR 173.307(a)(4)(iv).
Special Permits Data—Withdrawn			
21294–N	Trane U.S. Inc	173.306(e)(1)(i), 173.306(e)(1)(ii).	To authorize the transportation in commerce of large refrigerating machines where each pressure vessel containing A2L refrigerant gases in quantities exceeding 50 pounds and an aggregate of more than 100 pounds.

[FR Doc. 2022–11406 Filed 5–26–22; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

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

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 04, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data			
21354–N	Showa Chemicals of America, Inc.	173.304a	To authorize the use of non-DOT specification cylinders similar to DOT 4BW specification cylinders. (modes 1, 3).
21355–N	Lake & Peninsula Airline Inc ..	172.101(j), 173.242, 173.202, 173.203, 175.310(a).	To authorize the transportation in commerce of certain flammable liquids in non-specification bulk packaging (bladders) by cargo-only aircraft. (mode 4).
21358–N	Hornady Manufacturing Company.	172.300, 172.400, 173.24(f)(1), 173.62(c).	To authorize the transportation in commerce of ''Cartridges, small arms'' and ''Cartridges, small arms, blank'' in non-DOT specification packagings, with and without closures, and without being required to be marked and labeled. (mode 1).
21359–N	Thales Alenia Space	172.101(j), 172.300, 172.400, 173.301(f), 173.302a(a)(1), 173.304a(a)(2), 173.185(a)(1).	To authorize the transportation in commerce of certain non-DOT specification containers containing Division 2.2 Division 2.3 compressed gases, and other hazardous materials, for use in specialty cooling and propulsion applications for a satellite. (modes 1, 3, 4).
21360–N	ABG Bag, Inc	173.12(b)(2)(ii)(C), 178.707(d)	To authorize the use of alternative packaging for the transportation in commerce of lab packs. (mode 1).

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21361–N	Strategic Edge Imports, LLC	171.2(k), 172.204(a)(1), 172.204, 172.704.	To authorize the transportation in commerce of certain DOT Specification 3AL cylinders containing carbon dioxide with alternative hazard communication. Additionally, cylinders with a gauge pressure less than kPa (29.0 psig/43.8 psai) at 20 *C (68 *F) may be transported as a hazardous material.
21364–N	Cenergy Solutions Inc	172.101(i)(3), 173.302	To authorize the transportation in commerce of methane contained in MC–331 cargo tanks via highway. (mode 1).
21365–N	Borgwarner Akasol Ag	172.101(j)	To authorize the transportation in commerce of lithium batteries that exceed 35 kg net weight via cargo-only aircraft. (mode 4).
21366–N	Our Next Energy Inc	172.101(j), 173.185(a)(1)	To authorize the transportation in commerce of prototype and low production lithium batteries exceeding 35 kg net weight by cargo-only aircraft. (mode 4).

[FR Doc. 2022–11405 Filed 5–26–22; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date.

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On May 24, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. ALI, Usama (a.k.a. ALI, Osama; a.k.a. ALI, Oussama; a.k.a. ALI, Oussama Abd-El-Karim; a.k.a. RADWAN, Osama; a.k.a. RADWAN, Osama Abd Al Karim; a.k.a. RIZWAN, Usama Ali), Lebanon; DOB 02 Jan 1962; POB Palestine; nationality Palestinian; alt. nationality Lebanon; citizen Lebanon; alt. citizen Canada; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport BA669463 (Canada); alt. Passport GA329040 (Canada); alt. Passport AJ878107 (Canada); Identification Number 47836452 (Palestinian); Refugee ID Card PR0131118 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

Designated pursuant to section 1(a)(iii)(E) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for being a leader or official of HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. ODEH, Ahmed Sharif Abdallah (a.k.a. ODEH, Ahmad; a.k.a. ODEH, Ahmed; a.k.a. ODEH, Ahmed Sharif Abdullah; a.k.a. OUDA, Ahmed Charif Abdellah; a.k.a. UDIH, Ahmad), Jordan; DOB 01 Jan 1951; POB Jordan; nationality Jordan; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: HAMAS).

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, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. QAFISHEH, Hisham Younis Yahia (a.k.a. ASLAN, Hasmet; a.k.a. QAFISHEH, Hisham Younis Yahya; a.k.a. QAFISHEH, Hisham Yunis lchiyeh; a.k.a. QAFISHIH, Hisham Yunis Yahya; a.k.a. QUFAYSHAH, Hisham Yunis Yahya), Turkey; DOB 01 Sep 1956; alt. DOB 01 Jan 1956; POB Jordan; nationality Jordan; alt. nationality Saudi Arabia; citizen Jordan; alt. citizen Palestinian; alt. citizen Turkey; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport H161563 (Jordan) expires 27 Mar 2006; Identification Number 050449004 (Jordan); alt. Identification Number 9561014063 (Jordan); alt. Identification Number 2024660934 (Saudi Arabia) (individual) [SDGT] (Linked To: HAMAS).

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, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. SABRI, Abdallah Yusuf Faisal (a.k.a. SABRI, Abdallah), Kuwait; DOB 1954; nationality Jordan; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: HAMAS).

Designated pursuant to section 1(a)(iii)(E) of E.O. 13224, as amended, for being a leader or official of HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

BILLING CODE 4810–AL–P

Entities

1. AGROGATE HOLDING (a.k.a. AGROGATE COMPANY; a.k.a. AGROGATE CORPORATION; a.k.a. AGROGATE HOLDING CORPORATION; a.k.a. AGROGATE HOLDINGS; a.k.a. AGROGATE HOLDINGS INC.), Sudan; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. AL ROWAD REAL ESTATE DEVELOPMENT (Arabic: الرواد للتطوير العقاري) (a.k.a. ALROWAD COMPANY; a.k.a. ALROWAD FOR REAL ESTATE; a.k.a. ALROWAD FOR REAL ESTATE DEVELOPMENT COMPANY; a.k.a. ALROWAD REAL ESTATE DEVELOPMENT COMPANY; a.k.a. ALROWAD RESIDENTIAL COMPOUND; a.k.a. PIONEER COMPANY FOR REAL ESTATE DEVELOPMENT CO. LTD.; a.k.a. PIONEER REAL ESTATE DEVELOPMENT CO. LTD. OF SUDAN-SAUDI ARABIA; a.k.a. RUWWAD AL-QABIDAH COMPANY; a.k.a. RUWWAD REAL ESTATE DEVELOPMENT), West Khartoum, Sudan; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2010; Organization Type: Construction of buildings; alt. Organization Type: Real estate activities with own or leased property [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. ANDA COMPANY (a.k.a. ANDA CO.; a.k.a. ANDA LTD.), Saudi Arabia; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. ITQAN REAL ESTATE JSC (Arabic: إتقان العقارية ش.م.خ.) (a.k.a. ETQAAN REAL ESTATE CO.; a.k.a. ITQAN COMPANY; a.k.a. ITQAN REAL ESTATE; a.k.a. ITQAN REAL ESTATE CO.), Zakher Tower, Al Taawun Street, 2nd Floor, Al Mamzar Area, 63629, Sharjah, United Arab Emirates; P.O. Box 63629, Taawon (Al) Street, 2nd Floor, Zakher Tower, Sharjah, United Arab Emirates; Website www.itqan-realestate.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2004; Organization Type: Construction of buildings; alt. Organization Type: Real estate activities with own or leased property [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

5. SIDAR COMPANY (Arabic: شركة سيدار) (a.k.a. EDDAR INTERNATIONAL COMPANY; a.k.a. SARL SIDAR; a.k.a. SIDAR INTERNATIONAL HOLDING COMPANY WLL), 141 Coup Imobiliere el bina lot N 141, Dely Ibrahim, Algiers, Algeria; Lotissement 108 Lot N50 Commune, El Hachiniia, Algeria; 141 Cooperative Immobilere De Construction Lot N141, Dely Ibrahim, Algeria; 141 Hai El Bina, Dely Ibrahim, Algeria; Website http://sidar-dz.com/en; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Type: Construction of buildings; alt. Organization Type: Real estate activities with own or leased property [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. TREND GYO (f.k.a. ANDA GAYRIMENKUL; f.k.a. ANDA REAL ESTATE AND CONSTRUCTION INDUSTRY TRADE LIMITED COMPANY; f.k.a. ANDA TURK; f.k.a. ANDA-TURK; f.k.a. ANDA-TURK CO.; a.k.a. TREND GAYRIMENKUL YATIRIM ORTAKLIGI A.S.; a.k.a. TREND GAYRIMENKUL YATIRIM ORTAKLIGI ANONIM SIRKETI; a.k.a. TREND REAL ESTATE INVESTMENT PARTNERSHIP; a.k.a. TREND REAL ESTATE INVESTMENT PARTNERSHIP, JOINT STOCK COMPANY), Gursel Neighborhood, Imrahor Street, Kagithane Polat Office Building, No. 23, A Block, 4th Floor, Kagithane, Istanbul 34400, Turkey; Polat Ofis, Kat 4, 23 / A, Imrahor Caddesi, Gursel Mahallesi, Kagithane, Istanbul 34400, Turkey; Website www.trendgyo.com.tr; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; ISIN TRETGYO00023; Tax ID No. Sisli TA/0690472808 (Turkey); Registration Number 599791 (Turkey); Central Registration System Number 69047680800020 (Turkey) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: May 24, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–11422 Filed 5–26–22; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0128]

Agency Information Collection Activity Under OMB Review: Notice of Lapse, Notice of Past Due Payment

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0128.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0128'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Notice of Lapse, Notice of Past Due Payment—VA Form 29–389 and 29–389–1.

OMB Control Number: 2900–0128.

Type of Review: Extension of a currently approved collection.

Abstract: These forms are used by the policyholder to reinstate a lapsed life insurance policy. The information requested is authorized by law, 38 CFR Section 8.11.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 16828 on March 24, 2022, page 16828.

Affected Public: Individuals or Households.

Estimated Annual Burden: 4,459 hours.

Estimated Average Burden per Respondent: 11 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 23,352.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–11431 Filed 5–26–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0004]

Agency Information Collection Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument. Collections under review include: Application for Dependency and Indemnity Compensation, Survivors Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Available); Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child—In-Service Death Only; and Application for DIC, Survivors Pension, and/or Accrued Benefits.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0004.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0004'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Title 38 U.S.C. 1151; 1310; 1541; 1542; 5101(a); and 5121.

Title:

21P–534	Application for Dependency and Indemnity Compensation, Survivors Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Available).
21P–534a	Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child—In-Service Death Only.
21P–534EZ	Application for DIC, Survivors Pension, and/or Accrued Benefits.

OMB Control Number: 2900–0004.

Type of Review: Revision of a currently/previously approved collection.

Abstract: The VA Form 21P–534 is used to gather the necessary information to determine the eligibility of surviving spouses and children for dependency and indemnity compensation (DIC), death pension, accrued benefits, and death compensation. VA Form 21P–534a is an abbreviated application for DIC that is used only by surviving spouses and children of veterans who died while on active duty service. The VA Form 21P–534EZ is used for the Fully Developed Claims (FDC) program for pension claims, DIC and accrued claims.

VA Form 21P–534EZ has been updated, to include:

- Removed all Parent's DIC questions from the form as this will be covered under the VA Form 21–535, *Application for Dependency and Indemnity Compensation by Parent(s) (Including*

Accrued Benefits and Death Compensation When Applicable).

- Updated instructions.
- Added an optional use Survivors Benefits Application Checklist for applicant's benefit to assist in organizing submission of claim.
- Separated Section I and II to include Veteran's Identification Information/Claimant's Identification Information.
- Removed questions—How many times veteran married?/How many times claimant married? as regulations allow.
- Removed mailing address of nursing home or facility from Section VIII as this is covered in the Worksheet the claimant is directed to complete.
- Added an income source section and updated Section IV instructions to reflect this change.
- Added an Alternate Signer Certification and Signature (Section XVI).
- Restructured Worksheet for An Assisted Living, Adult Daycare, or a Similar Facility and Worksheet for In-Home Attendant Expenses and questions removed for better clarity.
- New standardization data points; to include optical character recognition boxes. This is a non-substantive change.
- The burden has been increased from 25 to 40 minutes as the 25 minute time frame did not fit the length of this form.

No changes have been made to the VA Form 21P–534, and VA Form 21P–534a. 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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 17139 on March 25, 2022, pages 17139–17140.

Affected Public: Individuals and households.

Estimated Annual Burden: 130,138 hours.

Estimated Average Burden per Respondent: 43 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 181,588.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–11428 Filed 5–26–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Friday,
No. 103 May 27, 2022

Part II

Department of Health and Human Services

Food and Drug Administration
21 CFR Part 6
Public Health Service
42 CFR Part 1
Centers for Medicare and Medicaid Services
42 CFR Part 404
Office of the Inspector General
42 CFR Part 1000
Office of the Secretary
45 CFR Part 8
Administration for Children and Families
45 CFR Parts 200, 300, 403, et al.

Withdrawing Rule on Securing Updated and Necessary Statutory Evaluations Timely; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 6

Public Health Service

42 CFR Part 1

Centers for Medicare and Medicaid Services

42 CFR Part 404

Office of the Inspector General

42 CFR Part 1000

Office of the Secretary

45 CFR Part 8

Administration for Children and Families

45 CFR Parts 200, 300, 403, 1010, and 1300

[Docket No. HHS–OS–2020–0012]

RIN 0991–AC24

Withdrawing Rule on Securing Updated and Necessary Statutory Evaluations Timely

AGENCY: Department of Health and Human Services.

ACTION: Final rule; withdrawal.

SUMMARY: The Department of Health and Human Services (HHS or Department) is issuing a final rule withdrawing a rule entitled ''Securing Updated and Necessary Statutory Evaluations Timely'' (SUNSET final rule), which published in the **Federal Register** of January 19, 2021. The SUNSET final rule was originally scheduled to take effect on March 22, 2021. However, after a lawsuit was filed on March 9, 2021, seeking to overturn the SUNSET final rule, HHS extended the effective date of the SUNSET final rule until September 22, 2022. HHS is now withdrawing the SUNSET final rule.

DATES: As of July 26, 2022, the final rule published on January 19, 2021 (86 FR 5694), which was delayed on March 23, 2021 (86 FR 15404), and March 4, 2022 (87 FR 12399), is withdrawn.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Daniel J. Barry, Acting General Counsel, 200 Independence Avenue SW, Washington, DC 20201; or by email at *SunsetRepeal@hhs.gov*; or by telephone at 1–877–696–6775.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Final Withdrawal Rule

HHS issued the SUNSET final rule on January 19, 2021. 86 FR 5694. The SUNSET final rule provides, among other things, that all regulations, subject to certain exceptions, issued by the Secretary of the Department of Health and Human Services (Secretary) or his delegates or sub-delegates shall expire at the end of (1) five calendar years after the year that the SUNSET final rule first becomes effective, (2) ten calendar years after the year of the regulation's promulgation, or (3) ten calendar years after the last year in which the Department ''Assessed'' and, if required, ''Reviewed'' the regulation, whichever is latest.[1] The SUNSET final rule was scheduled to take effect on March 22, 2021. However, after a lawsuit seeking to overturn the SUNSET final rule was filed on March 9, 2021, HHS issued an Administrative Delay of Effective Date, effective as of March 19, 2021, which postponed the effective date of the SUNSET final rule, pending judicial review, until March 22, 2022 (Administrative Delay). 86 FR 15404 (Mar. 23, 2021). HHS subsequently extended the effective date of the SUNSET final rule until September 22, 2022. 87 FR 12399 (Mar. 4, 2022).

The Department undertook to reexamine the SUNSET final rule in light of the allegations in the lawsuit, the many substantive comments submitted on the SUNSET proposed rule, and the different policy views held by the Biden-Harris Administration as compared to the previous administration which issued the SUNSET final rule. That review considered the processes followed in issuing the SUNSET final rule, its policy goals and objectives, the projected effects and analysis of impacts in its implementation, and the legal evaluation of and support for its provisions, including whether the rule is consistent with HHS statutory obligations and its mission to promote and protect the public health. Based on that reevaluation, HHS published a notice of proposed rulemaking to withdraw or repeal the SUNSET final rule (Withdrawal NPRM). 86 FR 59906 (Oct. 29, 2021).

HHS has reviewed the comments on the Withdrawal NPRM and now issues this final rule to withdraw the SUNSET final rule in its entirety.

B. Summary of Major Provisions

We are withdrawing the SUNSET final rule in its entirety.

C. Legal Authority

The primary statutory authorities supporting this rulemaking are the general rulemaking authorities for the various substantive areas under the Department's umbrella, as well as a general authorization for agencies to issue regulations regarding the administrative processes to be followed by that agency. These provisions include: 21 U.S.C. 371(a); 42 U.S.C. 216; 42 U.S.C. 1302; 42 U.S.C. 1395hh; 42 U.S.C. 2003; and 5 U.S.C. 301.

[1] The terms ''Section,'' ''Assess,'' and ''Review'' were capitalized in the preamble to the SUNSET final rule where those terms have the definitions ascribed to them in the text of that final rule. For ease of readability, these terms are not capitalized in the following discussion of this withdrawal final rule unless directly quoting or paraphrasing the SUNSET final rule.

D. Costs and Benefits

This regulatory action will reduce the time spent by the Department performing retrospective assessments and reviews of its regulations that would have been required by the SUNSET final rule, and time spent by regulated entities and other stakeholders, including the general public, small and large businesses, non-governmental organizations, Tribes and state and local governments, on comments related to these assessments and reviews. The impact of the withdrawal is analyzed in the final Regulatory Impact Analysis (RIA) for this final rule. *See* Section VI below. In that section, we monetize the likely reductions in time spent by the Department and the general public as cost savings. Our primary estimate of these cost savings in 2020 dollars, annualized over 10 years, using a 3% discount rate, totals $69.9 million. Using a 7% discount rate, we estimate $75.5 million in annualized cost savings. Table 1 in Section VI reports these primary estimates alongside a range of estimates that capture uncertainty in the amount of time it would have taken the Department to perform each regulatory assessment and review, and uncertainty in the amount of time the public would have spent on comments.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

As used in this preamble, the following terms and abbreviations have the meanings noted below.

Term	Meaning
ACA	Affordable Care Act.
ACF	Administration for Children and Families.
AI/ANs	American Indian and Alaska Native people.
AI	Artificial intelligence.
APA	Administrative Procedure Act.
CDC	Centers for Disease Control and Prevention.
CFR	Code of Federal Regulations.
CHIP	Children's Health Insurance Program.
CMS	Centers for Medicare & Medicaid Services.
COVID–19	Coronavirus Disease 2019.
E.O.	Executive Order.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FDA	Food and Drug Administration.
FSMA	FDA Food Safety Modernization Act.
HHS or Department	U.S. Department of Health and Human Services.
IHS	Indian Health Service.
OCR	Office for Civil Rights.
OIRA	Office of Information and Regulatory Affairs.
PDV	Present Daily Value.
PHS Act	Public Health Service Act.
RFA	Regulatory Flexibility Act.
RIA	Regulatory Impact Analysis.
SAMHSA	Substance Abuse and Mental Health Services Administration.
SBA	Small Business Administration.
SEISNOSE	Significant Economic Impact Upon a Substantial Number of Small Entities.
SECG	Small Entity Compliance Guide.
SSA	Social Security Act.
SUNSET	Securing Updated and Necessary Statutory Evaluations Timely.
Unified Agenda	Unified Agenda of Regulatory and Deregulatory Actions.

III. Background

The SUNSET final rule, if implemented, would have significantly altered the operations of HHS with considerable negative repercussions for a diverse array of stakeholders. We now conclude that these significant repercussions were not adequately considered in issuing the SUNSET final rule in part because the process to promulgate the rule was extremely unusual, if not unprecedented. We note a few of the key considerations here.

The SUNSET final rule is expansive in scope and impact, faced considerable opposition from stakeholders (and very little support), and lacked a public health or welfare rationale for expediting rulemaking. In contrast to the Department's historical approach to rulemaking in these circumstances, HHS completed the rulemaking—from the publication of the proposal to publication of the final rule—in less than three months. In issuing the Withdrawal NPRM, we explained that, given the lack of a public health or welfare reason to expedite the rulemaking and other procedural shortcomings, we were reconsidering the commenters' significant objections to the SUNSET proposed rule. As summarized and discussed in the Withdrawal NPRM, we found that those comments raised compelling concerns that the SUNSET final rule would harm the public health and welfare, but were given insufficient weight in issuing the SUNSET final rule. Many of those same concerns have been further confirmed in the comments on the Withdrawal NPRM.

We also conducted a reanalysis of the regulatory impact of the SUNSET final rule, and found that the rule rested on flawed assumptions and analysis.[2] We now conclude that the SUNSET final rule likely underestimated to a significant degree the resources needed for the required undertaking. In particular, because the implementation of the SUNSET final rule would have required a significant expenditure of

[2] The initial draft of the RIA for the SUNSET final rule was prepared by an outside economist. *See* 86 FR 5737 n. 210. As far as the Department is currently aware, no Department economist participated in considering, drafting, or revising the economic evaluation of the SUNSET proposed or final rule. These deviations from usual practice in developing the original SUNSET rule may help explain why our current RIA differs so greatly from the previous RIA.

We also note that the Department, in developing the original SUNSET rule, did not follow other routine internal review procedures, such as distributing the draft proposed and final rules to the relevant HHS agencies to solicit their review, comments, and concurrences. These irregularities may have also contributed to the flawed execution and analysis in the original SUNSET rule.

resources, the Department would have been forced to make resource allocation decisions that would have impeded the Department's routine operations and hampered its ability to carry out other key priorities and goals.

We have also reconsidered the impact of the expiration provision in the SUNSET final rule and, upon further examination of the comments and the relevant legal standards, we have determined that the provision is unsound and in our view unlawful. The expiration provision was a key element of the SUNSET final rule (as its name suggests); however, the final rule erred in misjudging the likelihood that HHS regulations would expire if the SUNSET final rule were to go into effect and be implemented. As a result, the final rule failed to examine the instability, uncertainty, and confusion that could be generated by automatically expiring regulations. Further, we now believe that amending thousands of regulations to schedule their expiration based on the Department's purported failure to conduct a small-entity analysis, without any corresponding notice regarding or evaluation of the public health importance of the individual regulations or the public's reliance on them, violates the Administrative Procedure Act (APA) and is inconsistent with the purpose and intent of the Regulatory Flexibility Act (RFA). The policy ramifications and legal defects of the expiration provision call the entire rulemaking into question.

In addition to our reconsideration of the expiration provision, we have reconsidered more broadly the public comments, the stated legal bases for the rule, and its RIA, including a consideration of the impacts that are not quantified or monetized. We have determined that the SUNSET final rule prioritized regulatory review over other Department operations to a degree that would negatively impact many stakeholders and the general public in a variety of ways. We no longer agree with our previous decision-making in promulgating the SUNSET final rule, because that decision-making was predicated on: (1) An inaccurate assessment of the effects of this rule, as indicated in the comments on both the SUNSET proposed rule and Withdrawal NPRM, and as discussed in the current RIA; (2) errors of law; and (3) a different set of policy priorities. We therefore have decided to withdraw the SUNSET final rule in its entirety.

A. History of the SUNSET Rulemaking

1. Proposed Rule, Comment Period, and Final Rule

On November 4, 2020, HHS published a notice of proposed rulemaking entitled ''Securing Updated and Necessary Statutory Evaluations Timely'' (SUNSET proposed rule). 85 FR 70096. Under the proposed rule, subject to certain exceptions, Department regulations would expire at the end of (1) two calendar years after the year that the SUNSET rule first became effective, (2) ten calendar years after the year of the regulation's promulgation, or (3) ten calendar years after the last year in which the Department ''Assessed'' and, if required, ''Reviewed'' the regulation, whichever was latest. Thus, under the SUNSET proposed rule, unless HHS assessed and, if required, reviewed most of its regulations within a certain timeframe specified in the rule (for most existing regulations, within two years) and every ten years thereafter, the regulations would automatically expire.

The SUNSET proposed rule also provided that if a review led to a finding that a regulation should be amended or rescinded, the Department must amend or rescind the regulation within a specified timeframe (generally two years). In addition, the SUNSET proposed rule contained certain publication requirements, including that (1) the Department publish the results of all ''Assessments'' and ''Reviews,'' including the full underlying analyses and data used to support the results, in the **Federal Register**, and (2) the Department announce the commencement of an ''Assessment'' or ''Review'' of a particular regulation on a Department-managed website, with an opportunity for public comment. The SUNSET proposed rule provided that comments to the proposed rule had to be submitted by December 4, 2020, except for comments on the portion of the rule amending 42 Code of Federal Regulations (CFR) parts 400–429 and parts 475–499 (Medicare program regulations), which were to be submitted by January 4, 2021.

On November 16, 2020, HHS announced a public hearing, scheduled for November 23, 2020, to receive information and views on the proposed rule (Public Hearing). 85 FR 73007. All of the commenters, which included industry/trade organizations, medical organizations, and public interest organizations, criticized the proposed rule in its substance, the rulemaking process, or both. *See* Transcript, Public Hearing on the Securing Updated and Necessary Statutory Evaluations Timely Notice of Proposed Rulemaking (Nov. 23, 2020) (available at *https://www.regulations.gov/document/HHS-OS-2020-0012-0501*) (Public Hearing Transcript).

In addition to the oral comments, a wide range of stakeholders submitted over 500 comments on the proposed rule. Almost all of the comments opposed the proposal. Comments opposing the rule were submitted by, for example, health care and medical organizations; Federally Qualified Health Centers and advocates for beneficiaries of Federal health care programs; State attorneys general and other state government representatives; Tribal governments and Tribal organizations; large industry associations and trade associations; consumer and public interest groups; and interested individuals. Only a handful of commenters supported the SUNSET proposed rule, and two of those comments were submitted by an individual who, under an agreement with HHS, also provided a draft RIA for the SUNSET final rule. *See* 86 FR 5737 n.210. Other commenters supporting the rule included independent business advocacy organizations and a nonprofit legal organization.

On December 18, 2020, the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget (OMB) received the SUNSET final rule for review and clearance and posted on the OIRA dashboard for E.O. 12866 regulatory review (Ref. 1). This preceded the January 4, 2021, conclusion of the comment period for the parts of the proposed rule relating to 42 CFR parts 400–429 and parts 475–499.

HHS issued the SUNSET final rule on January 19, 2021. 86 FR 5694. The final rule provided that all regulations issued by the Secretary or their delegates or sub-delegates in titles 21, 42, and 45 of the CFR, subject to certain exceptions, shall expire at the end of (1) five calendar years after the year that the SUNSET final rule first becomes effective, (2) ten calendar years after the year of the regulation's promulgation, or (3) ten calendar years after the last year in which the Department ''Assessed'' and, if required, ''Reviewed'' the regulation, whichever is latest. Thus, the final rule contained the same basic expiration framework as the proposed rule, but extended the timeframe for assessment and any applicable review of most existing regulations from two calendar years to five calendar years. The final rule also provided for a one-time ''continuation'' of a regulation subject to expiration if the Secretary makes a written determination that the

public interest requires continuation. The continuation period, stated in the determination, is not to exceed one year. In addition, the final rule contained exemptions for a small set of HHS regulations applicable to the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention (CDC), and the Centers for Medicare & Medicaid Services (CMS). The final rule maintained the timeframe for amendment or rescission of regulations, and included a new **Federal Register** publication requirement in addition to the publication requirements proposed in the SUNSET proposed rule.

2. Litigation and Delay of Effective Date

On March 9, 2021, the County of Santa Clara and several other plaintiffs sued the Department seeking to overturn the SUNSET final rule under the APA. Complaint, *County of Santa Clara* v. *HHS*, Case No. 5:21–cv–01655–BLF (N.D. Cal. Mar. 9, 2021) (*Santa Clara*) (Ref. 2).

On March 18, 2021, the Acting Secretary of HHS signed, pursuant to 5 U.S.C. 705 of the APA, the Administrative Delay, which extended the effective date of the SUNSET final rule until March 22, 2022. 86 FR 15404. On March 3, 2022, the Secretary further extended the effective date of the SUNSET final rule until September 22, 2022. 87 FR 12399 (Mar. 4, 2022). At the parties' joint request, the *Santa Clara* litigation has thus far been stayed.

3. The Withdrawal NPRM

HHS published the Withdrawal NPRM on October 29, 2021, in which it proposed to withdraw or repeal the SUNSET final rule in its entirety. 86 FR 59906. In the Withdrawal NPRM, the Department explained that—in issuing the SUNSET final rule—it should have engaged in a more robust consideration of the comments, and should have given greater weight to the potential harms to stakeholders and the public health. Therefore, before issuing the Withdrawal NPRM, the Department reexamined the SUNSET final rule in light of the allegations in the *Santa Clara* complaint, the many substantive comments submitted to the SUNSET proposed rule docket and raised at the Public Hearing, and the changed policy views in the current Administration. That review considered the processes followed in issuing the SUNSET final rule, its policy goals and objectives, the projected effects and analysis of impacts in its implementation, and the legal evaluation of and support for its provisions, including whether the rule is consistent with HHS statutory obligations and its mission to promote and protect the public health.

The comment period on the Withdrawal NPRM closed on December 28, 2021, and HHS received approximately 80 comments. A substantial majority of comments from a wide range of stakeholders supported the repeal or withdrawal of the SUNSET final rule. These commenters included health care and medical organizations; Federally Qualified Health Centers and advocates for beneficiaries of Federal health care programs; State attorneys general and other state and local government representatives; Tribal governments and Tribal organizations; large industry associations and trade associations; insurance plans and organizations; and consumer and public interest groups. Most of the comments that supported retention of the SUNSET final rule and opposed its withdrawal came from policy advocacy groups, including one business association and one submission from the individual who, as previously noted, provided a draft RIA for the SUNSET final rule. *See* 86 FR 5737 n.210. One comment that supported retention of the original rule was submitted by a group of state legislators led by a former HHS official who presented the overview of the SUNSET proposed rule at the Public Hearing, and another comment was submitted by a different HHS official from the previous administration. There were also several identical anonymous comments that supported the original rule and opposed its repeal or withdrawal.

B. The Department's Review

As described above, before issuing the Withdrawal NPRM, the Department reexamined the SUNSET final rule in light of the allegations in the *Santa Clara* complaint, the many comments submitted to the SUNSET proposed rule docket and raised at the Public Hearing, and changed policy views in the current Administration. This review considered the processes followed in issuing the rule, its policy goals and objectives, the projected effects and analysis of impacts in its implementation, and the legal evaluation of and support for its provisions, including whether the rule is consistent with HHS statutory obligations and its mission to promote and protect the public health. It should be noted at the outset that HHS recognizes the importance of retrospective review, already conducts retrospective reviews, and intends to continue to consider how to improve these existing processes. *See* Section V.C.2. The purpose of this review, however, was to reconsider whether the new requirements imposed in the SUNSET final rule would achieve the goals of retrospective review in a manner that best serves the Department's public health and welfare mission and that is consistent with applicable law.

We have now carefully considered the comments submitted on the Withdrawal NPRM. As described further below, our consideration of the comments has confirmed our tentative conclusions described in the Withdrawal NPRM and our decision to withdraw the SUNSET final rule. In this section, we summarize the key considerations, addressed in greater detail throughout the preamble, that have led us to conclude, as proposed in the Withdrawal NPRM, that the SUNSET final rule should be withdrawn in its entirety. Many of these considerations, including the burdens of implementing the rule, the harms of expiration, and the various legal infirmities, each provide independent and sufficient reasons for this withdrawal.

First, to be consistent with the Department's usual practices when engaging in rulemaking, the Department should have engaged in a more thorough consideration of the comments, and should have given greater weight to the potential harms to stakeholders and the public health. We have found that there were several procedural shortcuts taken in issuing the SUNSET final rule which may have impeded full consideration of the commenters' significant objections to the proposal as well as the care and meticulousness devoted to the final product. The SUNSET final rule was issued on a timeline of less than three months, which is unusually expedited for a rule of this significance, particularly given the potential impacts not just on small businesses but also the general public, larger businesses, Tribes, States, non-governmental organizations, and other regulated entities and stakeholders across a wide range of industrial sectors. The SUNSET rule was also remarkably expansive in scope, requiring review and possibly regulatory or deregulatory activity across a variety of distinct substantive statutes within the jurisdiction of several operating divisions (*e.g.,* CMS, FDA, CDC, Substance Abuse and Mental Health Services Administration (SAMHSA), the Office for Civil Rights (OCR), and the Administration for Children and Families (ACF)). However, it appears that the comments were not adequately considered (as evidenced by the summary mention in the preamble to the SUNSET final rule, as discussed further elsewhere in this preamble), and, contrary to policy, the Department

did not consult with tribal governments.[3]

Second, the Department should have more thoroughly examined the factual basis of the SUNSET final rule before issuing it. Our thinking is informed by a reevaluation of the factual premises and conclusions in the SUNSET final rule that are central to the analysis of the rule's implications and effects. In particular, based on a reanalysis of the regulatory impact of the rule, we have now concluded that the rule rested on a flawed understanding of the resources required for implementing the SUNSET final rule, which implicates the likelihood that HHS regulations would have expired, and which would have required the Department to make resource allocation decisions which could have impeded the Department's ability to carry out other key priorities.

In particular, the resources required to comply with the assessment and review requirements would be substantial. For each regulation covered by the SUNSET final rule, HHS agencies would need to: announce on a Department-managed website and in the **Federal Register** the commencement of an assessment or review; open and publicize public dockets for each assessment or review that the Department conducts; collect data to conduct the relevant evaluation (which may require time for additional public notice and comment, and OMB review and approval, under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* in addition to the time needed for data collection and analysis); engage subject matter experts and others to complete an assessment (and possibly a review); consult with state and local jurisdictions and Tribes, as appropriate; consider any comments to the public docket related to the evaluation; participate in interagency review, as appropriate; and publish the results of this process in the **Federal Register**, ''including the full underlying analyses and data used to support the results.'' 86 FR 5712. If the Department could not complete this extensive process within the final rule's timeframes, the regulations would then automatically expire. The original RIA for the SUNSET final rule had erroneously assumed, for example, that an assessment—which requires each of the steps previously discussed—would take between 3 and 10 hours. We have now revised that estimate to between 40 and 100 hours.

Beyond assessments and reviews, the SUNSET final rule would demand other significant resources, including the resources required to implement the overall framework, such as determining which regulations are exempt, and to amend or repeal regulations within a two-year time period (unless an extension is granted). These proceedings to amend or rescind the regulations would require an additional investment of HHS agencies' resources and public input. In addition, after those processes, the Department would likely then need to revise guidance documents and/or forms associated with both expiring regulations and regulations still in effect. Overall, we have determined that the SUNSET final rule miscalculated the extent of the resources needed for this undertaking and likely underestimated the costs of complying with the rule at least by a factor of four.

This reanalysis shows the SUNSET final rule, if implemented, would harm the public health and welfare and diminish the Department's ability to protect and advance the public health and welfare. The diversion of resources to implement the SUNSET final rule processes, the potential for automatic expiration of rules, and the actual expiration of regulations could undermine the operation of existing programs and otherwise harm the public health in numerous ways, discussed in greater detail below. For example, the resulting regulatory uncertainty could have several negative repercussions for stakeholders, by interfering with planning, contracting, and product development. The actual expiration of regulations could lead to confusion among stakeholders and undermine predictability and confidence in many sectors regulated by the Department.

Third, upon review, HHS has determined that the SUNSET final rule is contrary to several policy goals of the current Administration. The SUNSET final rule cited for support an Executive order (E.O.) entitled ''Reducing Regulation and Controlling Regulatory Costs'' (E.O. 13771), which placed limits on agencies' ability to issue new regulations. 86 FR 5696 (citing 82 FR 9339 (Jan. 30, 2017)). President Biden, on his first day in office, issued an E.O. entitled ''Revocation of Certain Executive Orders Concerning Federal Regulation,'' which revoked E.O. 13771.[4] 86 FR 7049 (Jan. 25, 2021) (E.O. 13992). As stated in E.O. 13992, the current Administration's policy is to equip executive departments and agencies with flexibility to use available tools such as robust regulatory action to confront the urgent challenges facing the Nation, including the coronavirus disease 2019 (COVID–19) pandemic, economic recovery, racial justice, and climate change. Accordingly, E.O. 13992 revoked ''harmful policies and directives that threaten to frustrate the Federal Government's ability to confront these problems and empowers agencies to use appropriate regulatory tools to achieve these goals.'' *Id.*

The Biden-Harris Administration has further committed to using available tools of Federal administrative agencies to, among other things: Pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality; make respect for Tribal sovereignty, self-governance, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal policy pertaining to American Indian and Alaska Native people (AI/ANs); and protect and strengthen Medicaid and the Affordable Care Act (ACA) and make high-quality healthcare accessible and affordable for every American.[5]

If implemented, the SUNSET final rule would negatively impact diverse groups of stakeholders, including historically underserved, marginalized, and adversely affected communities, and undermine the Department's public health mission. For example, as discussed in more detail in Section V.A of this preamble, numerous commenters expressed concern about the anticipated impacts on various populations including children, the elderly, the disabled, those living in poverty, and communities marginalized by racism and prejudice, who could lose eligibility for programs and services if the regulations underpinning the eligibility requirements were to expire. Public commenters, including Tribes and tribal representatives, assert that the SUNSET final rule would threaten the regulatory underpinnings of the Indian health system, completely disrupt the ability of that system's mission to provide care to tribal communities, undermine the delivery of HHS public health and

[3] *See* E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments,'' 65 FR 67249 (Nov. 6, 2000).

[4] The SUNSET final rule also cited ''Regulatory Relief To Support Economic Recovery,'' (85 FR 31353, May 22, 2020) (E.O. 13924 of May 19, 2020), which was revoked in E.O. 14018. 86 FR 11855 (Feb. 24, 2021).

[5] *See* ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' 86 FR 7009 (Jan. 25, 2021) (E.O. 13985 of Jan. 20, 2021); ''Tribal Consultation and Strengthening Nation-to-Nation Relationships,'' 86 FR 7491 (Jan. 29, 2021) (Memorandum of Jan. 26, 2021); ''Strengthening Medicaid and the Affordable Care Act,'' 86 FR 7793 (Feb. 2, 2021) (E.O. 14009 of Jan. 28, 2021); ''Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage,'' 87 FR 20689 (April 8, 2022) (E.O. 14070 of April 5, 2022).

social service programs for tribal members, and generate a level of uncertainty that is the antithesis of the goals of the HHS Tribal Consultation Policy.[6] HHS now acknowledges that the SUNSET final rule does not provide for advance notice of regulations that might automatically expire, which we believe conflicts with the Department's policy to engage in meaningful consultation with Tribal Nations. We further note, however, that attempting to address the lack of adequate notice of expiring regulations would not resolve more fundamental problems with the SUNSET framework for tribal and other stakeholders.

Fourth, the Department should have more carefully considered the legal basis for the SUNSET final rule, including the expiration provision, which is a cornerstone of the rule. Commenters on the SUNSET proposed rule had asserted that the Department did not adequately consider the legal questions raised by the automatic expiration provisions, which would potentially eliminate regulations without due notice and consideration of the implications of that specific expiration. After further review, we have concluded that the legal reasoning offered in support of the expiration provision did not address foundational Supreme Court case law requiring agencies to consider, among other things, the factual bases for a regulation before eliminating that regulation.[7]

The SUNSET final rule dismissed these concerns regarding the public health and legal repercussions of the SUNSET final rule in part by assuming that regulations would not expire. *See, e.g.,* 86 FR 5710 (''HHS does not intend to allow a regulation to simply expire''); *id.* at 5712 (''the Department is committed to dedicating adequate resources to timely Assess and Review its regulations''); *id.* at 5714 (''the Department intends to timely complete the necessary Assessments and Reviews and has built in safeguards to mitigate the risk of inadvertent expiration''). The Department failed to consider, however, that public health and legal problems with the SUNSET final rule exist even if no expiration occurs. For example, the resources diverted from other key programs would still undermine the Department's public health mission and even the *possibility* of expiration would create serious instability. The SUNSET final rule did not provide an adequate justification for, or even acknowledge, either of these likely consequences.

Moreover, we no longer agree with the Department's previous assumption that no regulations would expire. Preventing the automatic expiration of regulations would require prioritizing retrospective review above many other Department programs and missions. With its finite set of resources, the Department would be faced with a quandary of how best to triage the needs of its existing programs (as well as new public health priorities) and the new regulatory review process under the SUNSET final rule. On the one hand, given the large scale of resources necessary to conduct the required reviews, compliance with these new review requirements would lead to the diversion of resources from existing and new priority programs to the detriment of the other programs. This diversion of resources would constrain HHS's capabilities to carry out mission-critical objectives such as protecting the health of Americans, strengthening their economic and social well-being, and fostering sound, sustained advances in medical innovation and health sciences. On the other hand, the automatic expiration of regulations could also undermine mission-critical objectives. Based on our reconsideration and expert judgment, we no longer consider prioritizing resources to avoid expiration to be in the best interests of the public health and welfare. Therefore, we believe that this assumption—that no regulations would expire—was not well founded. The Department's previous reliance on this unsupported assumption, together with the miscalculation regarding the resources necessary to comply with the rule, are in themselves detrimental to the viability of the SUNSET final rule.

Upon review, we now conclude that the burdens imposed by the SUNSET final rule could undermine the Department's ability to fulfill its public health and human services missions, promote national priorities, and confront the challenges facing the nation—contrary to its statutory mandates and the policies expressed in EOs 13992, 13985, 14009, and 14070. As further described below, *see* Section V.C, the Department already has a longstanding retrospective review plan in place, and each year publishes in the **Federal Register** a list of the rules that it is reviewing, has reviewed, or intends to review under section 610 of the RFA. And although the Department is committed to exploring additional ways to improve its processes for conducting retrospective reviews under the RFA and identify and retire obsolete rules, the approach in the SUNSET final rule imposes requirements that are far more onerous than what is needed to meet those objectives and that would undermine essential Department priorities. In essence, implementation of the SUNSET final rule would likely have led to a sharply diminished ability of the Department to provide Federal leadership in public health and human services. On full consideration, the Department believes that implementation of the SUNSET final rule fundamentally conflicts with our policies and ability to achieve our statutory missions.

IV. Legal Authority

The primary statutory authorities supporting this final rule are the general rulemaking authorities for the various substantive areas under the Department's umbrella, as well as a general provision authorizing agencies to issue regulations regarding the administrative processes to be followed by that agency. These include:

- Section 701(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. 371(a), which authorizes the Secretary to ''promulgate regulations for the efficient enforcement of [the FD&C Act], except as otherwise provided in this section;''
- Section 215 of the Public Health Service Act (PHS Act), 42 U.S.C. 216, which provides that ''The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service[];''
- Section 1102 of the Social Security Act (SSA), 42 U.S.C. 1302, which provides that the Secretary ''shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which [they are] charged under this Act;''
- Section 1871 of the SSA, 42 U.S.C. 1395hh, which provides that ''the Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance programs under this title;''

[6] U.S. Department of Health and Human Services, HHS Tribal Consultation Policy (Dec. 12, 2010) (available at *https://www.hhs.gov/about/agencies/iea/tribal-affairs/consultation/index.html*).

[7] The Department is not questioning the legality of the well-considered establishment of sunsetting provisions in other, more-targeted circumstances, such as the inclusion of a sunset provision in a single rule. In such a case, the agency would have provided notice and the opportunity for comment on, and given due consideration of, the potential sunset of that particular regulation. In contrast, the SUNSET final rule was unusually sweeping and superficial, in that it established automatic expiration for a large swath of diverse regulations without due consideration of the substance of each regulation and the impact of the added sunset provision on affected entities under that regulation. See Section V.D.1 (discussing, *e.g., Dep't of Homeland Sec.* v. *Regents of the Univ. of Cal.,* 140 S. Ct. 1891, 1913 (2020)).

• 42 U.S.C. 2003, which provides that ''the Secretary of Health and Human Services is also authorized to make such other regulations as [they] deem desirable to carry out the provisions of this subchapter [transferring to the Indian Health Service (IHS) the authority to provide health care services to AI/ANs];'' and

• 5 U.S.C. 301, which provides that ''[t]he head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.''

Congress's grant of broad, discretionary rulemaking authority necessarily includes the authority not to promulgate—and therefore also to withdraw or repeal—a proposed or final rule. *See Natural Res. Def. Council, Inc.* v. *SEC,* 606 F.2d 1031, 1045 (D.C. Cir. 1979); *see also* 5 U.S.C. 551(5) (defining ''rule making'' to include formulating, amending, and repealing a rule). In addition, ''[t]he power to reconsider is inherent in the power to decide,'' *Albertson* v. *FCC,* 182 F.2d 397, 399 (1950), and, thus, ''[a]dministrative agencies have an inherent authority to reconsider their own decisions.'' *Trujillo* v. *Gen. Elec. Co.,* 621 F.2d 1084, 1086 (10th Cir. 1980).

V. Analysis of and Responses to Public Comments on the Withdrawal NPRM

During the 60-day public comment period, we received approximately 80 public comments. The majority of commenters expressed support for the Withdrawal NPRM, and in general these comments closely aligned with comments received in opposition to the SUNSET proposed rule. A substantial number of these commenters had submitted comments on the SUNSET proposed rule and either restated, submitted, or referenced their earlier comments in explaining their support for the Withdrawal NPRM. In the Withdrawal NPRM, we discussed the substantial number of comments on the SUNSET proposed rule, and we incorporate the comments on the SUNSET proposed rule and the discussion of the underlying issues and comments in the Withdrawal NPRM by reference as part of the basis for this final rule. Below we summarize and respond to the comments on the Withdrawal NPRM.

A. Comments on Implementation Burdens on the Department and Stakeholders

In issuing the Withdrawal NPRM, the Department explained that it was concerned that implementation of the SUNSET final rule would create burdens on the Department and on stakeholders that would divert resources from pressing public health matters and thus harm the public. 89 FR 59911. Below we respond to the comments on the Withdrawal NPRM on this subject.

1. Burden on the Department

Comment: The Department received numerous comments agreeing with HHS's explanation in the Withdrawal NPRM that the SUNSET final rule rested on a significantly flawed understanding of the time and resources that would have been needed to carry out the scope and pace of assessments and reviews required under the rule. In general, these commenters asserted that there are simply not enough HHS staff or resources to undertake such a sweeping process and simultaneously evaluate thousands of regulations in a short period of time. Several of the commenters further explained that the SUNSET final rule would create more burdens than it would ease and would be unlikely to benefit industry and consumers. In contrast, one commenter asserted that the SUNSET rule can and should be implemented and that concern regarding the enormous scope of the task and pace of reviews that would be required under the SUNSET final rule is not a valid reason to withdraw or rescind the rule. The commenter explained that, without the SUNSET framework, the quantity of regulatory reviews that the Department should undertake will grow ever more daunting as time passes and rulemaking persists.

Response: We agree with the commenters who stated that the framework set forth in the SUNSET final rule would create a tremendous economic and workload burden on the Department and would require pursuing the objective of regulatory review at great expense to the public and to the small business community it purports to benefit. Our current RIA, revised from the SUNSET final rule, provides ample support for these assertions. *See* Section VI. The assessments and reviews required by the SUNSET final rule would be a colossal undertaking with significant resource implications. Among other things, approximately 12,400 of the Department's estimated 18,000 sections in the CFR are over ten years old and would be subject to review during the initial five-year period. Assessing more than two-thirds of all HHS regulations simultaneously in a compressed 5-year timeframe, and assessing them again on a recurring basis ten years after conclusion of the prior assessment, is infeasible. Many of these comments underscored that the SUNSET final rule failed to appreciate the scope of its effects on the Department, including that the rule could compromise some of the Department's most important public health and public safety initiatives. As stated in the Withdrawal NPRM, HHS continues to conclude that the SUNSET final rule ''did not explain how HHS could devote numerous employees to full-time retrospective review without compromising the Department's and its sub-agencies' many other crucial tasks, such as protecting the country from future pandemics or other public health emergencies.'' 86 FR 59911.

We disagree with one commenter's suggestion that we should disregard these concerns because we should prioritize retrospective review as provided under the SUNSET final rule. First, we disagree that the framework that would have been established by the SUNSET final rule is an appropriate model for engaging in retrospective review. As discussed in further detail in Sections V.C. and D. of this preamble, the framework that would have been implemented under the SUNSET final rule is inconsistent with the requirements and objectives of the RFA; does not fulfill the directives of EOs related to retrospective review, such as E.O. 13563 on ''Improving Regulation and Regulatory Review;'' and likely violates the APA. Second, the disruption to the Department's normal operations that would have been caused by the implementation of the SUNSET final rule is too sizable to disregard and is an entirely valid reason to reject these self-imposed procedures. As discussed in Section V.C below, the Department intends to continue to engage in retrospective review and to explore ways to improve those processes in a manner that is consistent with applicable law and does not undermine its core missions.

Comment: A number of commenters supporting the Withdrawal NPRM highlighted the concern that the SUNSET final rule would shift the Department's focus away from its public health mission. Several of these commenters particularly focused on concerns that the SUNSET final rule would divert resources and attention from the urgent COVID–19 pandemic response and impact the Department's ability to develop policy and

promulgate regulations implementing new Federal laws and programs to address pandemic relief. In describing the need for the Department to remain flexible and have the capacity to respond quickly to crises and changing circumstances, one commenter gave the example of CMS needing to take action during the pandemic to swiftly approve hundreds of waivers and state plan amendments so people with disabilities could remain safely in their home. The commenter concluded that, if the SUNSET final rule had been in effect and CMS staff were hamstrung by assessments and reviews, they may not have been able to pivot quickly and review and approve states' crucial changes. Some commenters also expressed concern that the SUNSET final rule would divert resources and attention from other public health emergencies like the opioid epidemic.

Commenters also expressed concern that the volume of assessments and reviews would detract from the Department's overarching work to address the needs of vulnerable populations including children, the elderly, the disabled, those living in poverty, the LGBTQ community, patients living with HIV/AIDS, tribal members, and communities of color. Commenters stated that the SUNSET final rule would frustrate the objectives articulated in E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' 86 FR 7009, by burdening the programs that serve vulnerable populations and communities of color.

In addition, commenters asserted that implementation of the SUNSET final rule would detract from public health and innovation in the health sector by diverting FDA staff time from regulatory science, engagement with sponsors to support product development, communication of standards to stakeholders on new therapeutic areas such as gene editing, and the conduct of timely reviews of new drug applications. Other commenters expressed concern that the SUNSET final rule would undermine FDA's ability to ensure the safety of food and medicines because the burden of assessments and reviews could divert resources from the implementation and enforcement of existing regulations impacting public safety, patient safety, and public health.

Response: We agree that redirecting significant resources from core HHS functions and priorities to undertake assessments and reviews and preserve regulations from automatic expiration under the SUNSET final rule would be contrary to the Department's role as the U.S. Government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. The Department's ongoing experience with the current pandemic reinforces the need for the Department to remain flexible and focused on the management and utilization of HHS resources. The SUNSET final rule, however, would require HHS to redirect subject matter experts, including program analysts and administrators, economists, and counsel, to perform assessments and reviews. The SUNSET framework would require prioritizing retrospective review above many other Department programs and missions, including both ongoing program operations and the development of new policies and regulations (often necessitated by new statutory requirements) to address public health needs such as the needs of vulnerable populations and advances in health care products and services. Because of these effects, the SUNSET final rule poses a significant risk of future harm.

Moreover, as described in the Withdrawal NPRM, the SUNSET final rule provides no good cause exception to avert the expiration of a regulation, such as in the event of a pandemic, a public health emergency, or another declared national emergency. 86 FR 59912. Although the SUNSET final rule added a provision to permit the Secretary to extend the period for assessments and reviews, the extension could only be applied one time, for up to one year, per each section of regulation, and the extension could only be exercised through a determination published in the **Federal Register**. 86 FR 5725. Given the brief extension available for the assessment and review and the potential duration of an emergency (as evidenced by the current 2 years plus duration of the COVID–19 pandemic), the Department has determined that the SUNSET final rule was incorrect to conclude that this option would be sufficient to avoid the diversion of resources and the automatic expiration of regulations in the event of a pandemic, emergency, or other development that prevents the Department from timely assessing or reviewing certain sections. *Id.* at 5726. Even if a broader good cause exception were included, the option of employing an exceptional process for emergencies would not begin to address the substantial burdens imposed by, and fundamental policy and legal problems with, the SUNSET final rule, with its application to virtually all of HHS regulations.

2. Burden on Stakeholders

Comment: Commenters representing industry and public interest groups supported withdrawing or repealing the SUNSET final rule because of the expected burden on the general public and entities with an interest in the underlying regulations. These stakeholders explained that the rule failed to adequately consider the burden imposed on regulated industry and others to both track HHS regulations for potential expiration and submit comments related to the assessments and reviews. For example, one commenter expressed concern that if the SUNSET final rule is not withdrawn, their advocacy organization would need to redirect resources to monitor the status of the approximately 2,000 FDA regulations and then, if needed, invest at least 40 to 100 hours per rule to provide comments. Another coalition estimated that over 1,000 CMS regulations would require their immediate attention if the SUNSET final rule was not withdrawn or repealed. Among industry stakeholders, one commenter stated that, rather than having a deregulatory impact, the SUNSET final rule would require near constant vigilance as relatively stable regulatory schemes like Medicaid programs would become subject to constant change.

Response: The Department believes that any retrospective review process should not impose an undue burden on the public and agrees that the SUNSET final rule would be extremely burdensome on stakeholders to monitor and provide input on both assessments and reviews. As noted in the Withdrawal NPRM, approximately 12,400 of the Department's estimated 18,000 sections in the CFR are over ten years old, and each of these are regulations that could automatically expire five years after the SUNSET final rule's effective date if the rule were implemented. Under the timeline and definitions provided in the final rule, over 7,000 sections of the CFR that were promulgated by the FDA are more than ten years old, or would become more than ten years old during the first five years the rule would be in effect, representing over 95 percent of this agency's current regulations. 86 FR 59912. These numbers indicate that the burden of public participation is significant. In addition, HHS no longer agrees with its previous approach of putting the onus on the public to monitor the Department's progress under the rule to prevent expiration.

The SUNSET final rule stated that a ''safeguard'' to mitigate the risk of inadvertent expiration was for the public to perform this monitoring function and submit comments requesting that the Department commence an assessment or review. 86 FR 5714. We no longer believe it is appropriate to set up a system that depends on stakeholders, including non-profits and state, tribal, and local governments, to ensure that a Department performs an administrative function properly, due to the significant resources it would require those stakeholders to invest in such an effort.

Comment: Several commenters expressing support for the Withdrawal NPRM stated that it would be difficult, if not impossible, for the public to accurately determine whether and when a regulation would be subject to review under the SUNSET final rule, and if so, the deadline for informing the Department and commenting. Many of these commenters noted, in response to similar comments on the SUNSET proposed rule, the Department had attempted to mitigate those concerns in the SUNSET final rule by providing that the Department would (1) publish a monthly list of new assessment or review that have commenced and (2) establish a general docket where the public could alert the Department when a regulation may be at risk of expiration because of an approaching deadline for assessment or review. 86 FR 5702. However, the commenters explained that these mitigation efforts are insufficient to address the difficulty of continuously monitoring the pace of assessments and reviews and the burden on stakeholders to alert the Department regarding potentially expiring rules. Another commenter disagreed and stated that, if a section of a regulation were to inadvertently expire under the SUNSET final rule, HHS could follow the APA's flexible rulemaking procedure to readopt it.

Response: The Department agrees that the overall framework of the SUNSET final rule would make it difficult and confusing for the Department to implement and for stakeholders to follow. For example, the SUNSET final rule would require each section of the CFR to be assessed and, if applicable, reviewed in the context of the final rule under which it was promulgated. However, final rules often cross-reference or amend previously promulgated sections of the CFR. Given this complication, it would be difficult for the HHS to accurately and comprehensively develop and maintain a list for stakeholders regarding regulations that could expire under the SUNSET final rule framework. Moreover, the Department agrees that it is unreasonable to expect stakeholders to navigate such a process. We conclude it is inappropriate for the SUNSET final rule to rely in part on the public submitting comments requesting that the Department assess or review a regulation in order to operationalize the final rule.

The Department also has determined that addressing the inadvertent expiration of a regulation under the SUNSET final rule by reissuing the implicated regulation would be inefficient, costly, wasteful, and confusing—with insufficient, and in many cases, no countervailing benefit. Such an effort would require a full notice and comment process, as well as a full economic assessment, for a proposed and final rule during which stakeholders and programs would experience the legal and regulatory uncertainty of an expired regulation.

3. Comments on Economic Evaluation of Burdens

Comment: A few commenters disagreed with the Department's assessment in the Withdrawal NPRM of the burden of the SUNSET final rule and asserted that the Withdrawal NPRM's RIA overstated the cost estimated for implementing the SUNSET final rule. More specifically, some commenters questioned the estimates for burdens on stakeholders to comment on assessments and reviews based on these commenters' prediction that most members of the public have little incentive to take an interest in the assessment and review of individual HHS policies. One comment suggested the costs were overstated because the regulations that were the subject of stakeholder comments would be eliminating costs on these (and other) commenters. The comment also asserted that any uncertainty created by the SUNSET final rule is a ''short-term cost[]'' that ''will be resolved as the schedules for expiration are discovered'' and may be offset by the reduction in uncertainty associated with diverting HHS resources away from other actions.

Another comment asserted that HHS ignored the concept of ''rent-seeking'' when it considered the costs of HHS regulatory actions and the ''likely unrepresentative nature of the comments received by HHS'' on the SUNSET proposed rule. The commenter further stated that ''rent-seeking costs'' may also affect the Department's cost estimates. The commenter concluded that ''[i]f the entities that submit comments to the department while it is undergoing retrospective reviews would have been rent-seeking in absence of having to write comments, then the private costs to these individuals and groups from writing comments could well constitute social benefits to society writ large.''

In addition, one comment questioned the estimates for burdens on the Department. The commenter stated that the Withdrawal NPRM's RIA used cost estimates for burdens on the Department that were inconsistent with guidance in OMB Circular A–4 and HHS Guidelines for Regulatory Impact Analysis.[8] In the commenter's view, the RIA incorrectly projected ''accounting costs'' from hiring new personnel to perform these tasks. The commenter asserted that, instead, the RIA should have assessed the real opportunity costs to the Department and taxpayers from the forgone activities such staff would have performed in the absence of the process required by the SUNSET final rule. The commenter also questioned the Department's assumption in the RIA for the Withdrawal NPRM that HHS would follow Small Business Administration (SBA) guidance in conducting reviews, and asserted that the costs of conducting reviews would lessen over time.

Response: We disagree with these commenters concerning the cost estimates in the Withdrawal NPRM RIA and continue to believe that the RIA in the SUNSET final rule likely underestimated the costs of implementing that rule to a significant degree. With regard to the estimated burden on stakeholders, as discussed in greater detail in Section VI, the SUNSET final rule likely underestimated the time and resource commitment of a credible assessment and review process. The Department acknowledges that there is uncertainty in the amount of time the public would spend commenting on assessments and reviews under the SUNSET final rule. We have appropriately incorporated this uncertainty into the estimates of the burden to stakeholders by incorporating a range of estimates of the time spent per comment into our current evaluation of the burden of the SUNSET final rule. To the extent that the commenters indicate that the public would submit fewer, rather than zero, comments prior to the assessments, we have incorporated this into the Withdrawal NPRM's preliminary RIA by incorporating a lower estimate of 25

[8] *See* OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*); HHS Guidelines for Regulatory Impact Analysis (2016) (available at *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//171981/HHS_RIAGuidance.pdf*).

comments per assessment into our current evaluation of the burden of the SUNSET final rule. This estimate is about five percent of the comments anticipated in the SUNSET final rule's RIA for regulations that the Department announces would be rescinded following a review.

In contrast, the SUNSET final rule's RIA incorrectly based its burden estimates on an assumption that the public would forego commenting until the retrospective analysis was complete and the Department announced its intent to rescind or amend a rulemaking. We now find this assumption puzzling: It would not make sense to require a comment process for assessments if the Department thought no one would be interested in commenting. In any event, we disagree with the assumption that stakeholders will forego commenting until late in the process because it is illogical, lacks any evidentiary basis, and is contrary to the weight of the comments. Indeed, stakeholders have already demonstrated a high level of interest in the subject of this rulemaking.[9] We understand that these stakeholders would be motivated to comment because they would want to ensure that HHS has up-to-date information to correctly evaluate both the impacts of a rulemaking and potential changes to the regulations. We also note that Congress, in drafting the RFA, appeared to believe the public would be interested in commenting on reviews because it required agencies to provide an opportunity for public participation in the review process.

We also do not agree that uncertainty is a short term cost. The SUNSET final rule creates a continuing threat of expiration because, regardless of the ''schedules for expiration,'' the public cannot know what public health exigencies may arise in the future and what decisions the Department will make to serve its mission. The same uncertainty does not exist with more typical rulemakings because they have built-in safeguards, such as notice and opportunity for comment.

With regard to the comment about ''rent-seeking,'' this comment appears to confuse several economic concepts, including ''rent-seeking,'' ''rent-seeking costs,'' and economic rent, which makes the comment difficult to parse and understand. Additionally, we do not unambiguously attribute to the SUNSET final rule the impacts of regulations that would be rescinded or amended following a review under the SUNSET final rule. It is also not clear why the commenter anticipates that the SUNSET final rule, which would invite public comment on about 18,000 regulations over ten years, would result in public comments that are more representative of the views of the general public than the notice-and-comment rulemaking process the Department follows under the APA in this rulemaking. As such, it is not clear how the SUNSET final rule would provide a superior approach to addressing economic rents attributable to existing regulations.

With respect to the comment on the Withdrawal NPRM preliminary RIA's estimated burden on the Department, we agree with the commenter that there would be real opportunity costs to the Department and taxpayers attributable to forgone activities that would have been performed in the absence of the process required by the SUNSET final rule. While we cannot predict all of the likely forgone activities, they could include, for example, actions to address urgent public health matters such as COVID–19 pandemic relief efforts or similar efforts to respond to future emergent threats, FDA review of applications and the fulfillment of user fee commitments, work to ameliorate the opioid crisis, stem outbreaks of foodborne illness, and conduct inspections, recalls and other public health priorities. To the extent that Department would need to defend challenges related to expired regulations, such effort would further require the Department to divert resources from other public health priorities. To measure these opportunity costs, we adopt the standard approach recommended in the *HHS Guidelines for Regulatory Impact Analysis* of a ''default assumption'' ''that the value of activities conducted during paid work time can be best approximated by the cost of labor to the employer. The standard economic model assumes that employers are willing to incur labor costs equal to the value of workers' marginal product. Conceptually, this amount represents the value of what the employee would have otherwise produced in the absence of the regulation. Thus, the opportunity cost of paid work time can be approximated based on the employer costs, including pay, benefits, taxes, and associated overhead.'' [10]

However, the commenter is incorrect that the assessments and reviews would be achieved solely through the reallocation of existing staff resources. As described in Section VI, implementation of the SUNSET final rule would require contributions from current and new Department subject matter experts, lawyers, and other reviewers informing the retrospective analysis and providing feedback on draft analyses, time spent by economists and other analysts developing the retrospective analysis to respond to this feedback, time spent reading and incorporating evidence from other sources, including public comments, and other activities. The SUNSET final rule RIA did not explicitly include these important activities in its estimates of the time per review. The consequence of excluding these activities in its analysis is that the SUNSET final rule likely underestimated the total costs to the Department of the SUNSET final rule to a significant degree. Our current evaluation of these costs indicates that the Department would incur additional costs to hire, train, and transfer personnel with technical expertise.

One comment argued that the Department's cost estimates in the Withdrawal NPRM are likely to be inaccurate because the comment disagreed with our assumption that the Department would follow the recommendations in the SBA guidance.[11] The commenter cited an analysis of regulatory impact analyses performed between 2008 and 2013 as support. This analysis, which predates the SBA Guidance published in August 2017, does not reference ''Regulatory Flexibility Act,'' ''regulatory flexibility analysis,'' ''Section 610 reviews,'' ''small business,'' ''small entity,'' or otherwise contain any evidence that the Department does not currently follow the recommendations in the SBA guidance, or any evidence that the Department would not follow these

[9] As noted above, a wide range of stakeholders submitted over 500 comments on the SUNSET proposed rule, almost all in opposition, and several stakeholders filed the *Santa Clara* lawsuit seeking to overturn the SUNSET final rule. As discussed in the Withdrawal NPRM and in Sections IV.A.2 and IV.B.1. of this preamble, many stakeholders opposed the SUNSET final rule because the threat of regulations automatically expiring would increase cost and confusion, impede competition, and harm the public health in numerous ways. Moreover, if the SUNSET final rule were to be implemented, many of these stakeholders have indicated that they would expect to expend considerable resources tracking HHS regulations for potential expiration and submitting comments. *See* Section V.A.2.

[10] HHS Guidelines for Regulatory Impact Analysis at 27 (2016) (available at *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//171981/HHS_RIAGuidance.pdf*). This default assumption is discussed in greater detail in Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices'' (Sept. 17, 2017) (available at *https://aspe.hhs.gov/reports/valuing-time-us-department-health-human-services-regulatory-impact-analyses-conceptual-framework*).

[11] ''A Guide for Government Agencies: How to Comply with The Regulatory Flexibility Act,'' (Aug. 2017) (available at *https://cdn.advocacy.sba.gov/wp-content/uploads/2019/06/21110349/How-to-Comply-with-the-RFA.pdf*).

recommendations for assessments or reviews performed under the SUNSET final rule.

The commenter also discussed the potential that the costs of conducting reviews will lessen over time. We are not able to fully evaluate the merits of comment since it does not provide any guide for when the Department would begin to experience these lower costs, and because it does not include a quantification of the reduction in time per assessment or review resulting in lower costs over time. *See* Section VI.

B. Comments on Potential Harms From the Possible and Actual Expiration of Regulations

In issuing the Withdrawal NPRM, the Department explained that it was concerned that, if the SUNSET final rule were implemented, both the possibility of automatic expiration of HHS regulations, and the actual expiration of HHS regulations, could harm the public. 89 FR 59914. Below we respond to the comments on the Withdrawal NPRM on this subject.

1. Impact on Stakeholders in General

Comment: A number of commenters, including health care providers, public interest groups, and private sector entities, urged HHS to withdraw the SUNSET final rule because it would create unpredictability for industry and consumers. These commenters noted that the lack of predictability concerning the potential automatic expiration of regulations could result in the haphazard vacating of numerous existing rules without appropriate communication to regulated entities, and potentially upend long-standing foundational rules with provisions that are inter-related with other rules. The commenters expressed concern that such unpredictability regarding large swathes of the rules governing public health and welfare could lead to adverse impacts for stakeholders.

Several of these comments expressed concern that the SUNSET final rule would introduce uncertainty regarding the validity and enforceability of regulations and wreak havoc on HHS programs. Commenters noted that there would be uncertainty and confusion regarding the current and future regulatory status of rules slated for review and assessment, and that expiring regulations could leave vast, gaping holes in the regulatory framework implementing HHS programs and policies and introduce confusion and sudden shifts in regulatory requirements. Commenters further noted that if the intent of the SUNSET final rule was to ease burdens upon small businesses, it would more likely have the opposite effect. All businesses, but most especially small ones, benefit from transparent regulation that can be planned for, budgeted for, and implemented.

Among these commenters, several representatives of industry coalitions whose membership includes small entities also warned that, if not withdrawn or repealed, the SUNSET final rule could engender chaos and harm to both industry and consumers. Several commenters discussed the time, resources, and capital investments made by the food industry because of reliance on durable public standards that have been codified in regulation. The commenters expressed significant concerns about the expansive and accelerated approach taken in the SUNSET final rule and the disproportionate burden and uncertainty small entities would face should the final rule lead to the expiration of regulations that have been in place for years and are essential to a level playing field within the industry.

Commenters also described the impacts of regulatory uncertainty on public health. One commenter described the potential damaging effects the SUNSET final rule would have on the drug development process, where drug sponsors rely on a predictable regulatory environment to plan their development programs. The commenter stated that an environment in which FDA or other HHS regulations may be capriciously eliminated could hamper progress on much needed therapies in the drug development pipeline. One commenter specifically referenced the consequences of a lack of public confidence in food labeling, including the rules that inform consumers about the ingredients and nutrient content of their food, and safety rules concerning Salmonella, Shiga toxin-producing E. coli, and other potentially deadly foodborne pathogens. Other commenters provided examples of harms of uncertainty to the HHS programs such as Temporary Assistance for Needy Families (TANF) and the Child Care and Development Fund (CCDF), where a strong regulatory framework provides the clarity needed to run these programs on a day-to-day basis, gives providers guidance on their obligations, and explains to beneficiaries what their benefits mean.

Response: We agree with these comments about the importance of a relatively steady and predictable regulatory environment and appreciate the examples of the ways the SUNSET final rule would introduce unpredictability regarding HHS regulations and the associated harms. Given the complicated resource allocation decisions necessary to implement the review framework prescribed in the SUNSET final rule, HHS is unable to forecast the number of or identify specific regulations that may expire without a completed assessment and, if applicable, review. It therefore may be difficult for stakeholders to know which regulations would remain in place because that would depend on whether the Department could actually complete each regulation's assessment and/or review by the assessment or review deadline. We concur that the potential automatic expiration of large swathes of rules, or even one complex rule, without notice of the reasoned justification for retiring that rule or set of rules, could create uncertainty and unpredictability regarding regulatory programs going forward.

Although the SUNSET final rule stated that it ''does not believe uncertainty among the regulated community will add significantly to the costs of this rulemaking'' because ''there is always a possibility that regulations could be amended or rescinded, even absent this rule,'' 86 FR 5709, HHS now concludes that this reasoning was flawed. The rule's automatic expiration of regulations is very different from amendment or rescission through notice and comment rulemaking, because there is no built-in safeguard of prior notice for automatic expiration, and no process for obtaining stakeholder input on the implications of losing the regulation. Therefore, expiration could be haphazard and unpredictable and without appropriate notice to and input from stakeholders. This outcome would be far more disruptive than the existing possibility of targeted changes to regulations based on a reasoned justification such as a change in the governing law, technology, policy, or other circumstances. Moreover, the Department generally uses mechanisms such as the Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda) and the HHS Regulatory Agenda, which are published in the **Federal Register**, to provide advance notice and predictability to affected stakeholders about specific regulations that may be amended or rescinded.[12]

We have now determined that the mechanisms described in the SUNSET final rule, which include a dashboard on the HHS website that shows the

[12] *See, e.g.,* Regulatory Information Service Center, ''Introduction to the Unified Agenda of Regulatory and Deregulatory Actions—Fall 2021'', 87 FR 5002, 5009 (Jan. 31, 2022).

progress of Assessments and Reviews and when HHS expects them to be completed, are insufficient to provide adequate clarity concerning regulations that may be subject to automatic expiration. As discussed in greater detail in Section V.E, the rule includes a number of vague and confusing provisions that would make it difficult to determine when any given section of the CFR is subject to expiration. For example, a section may need to be reviewed multiple times as part of multiple rulemakings to avoid expiration, or it may require no review at all because it has been determined to fall within an exception. The public could not necessarily predict, from looking at the dashboard, the fate of that particular section. Moreover, rulemakings could be added or deleted from the dashboard at HHS's discretion, so the fact that a particular rulemaking is absent would not necessarily mean that the public could draw conclusions regarding the rule's expiration status until the expiration date is near. For these reasons, a dashboard indicating the progress of assessments and reviews would not adequately alleviate public uncertainty about the loss of regulations. These uncertainties could have several adverse repercussions as discussed in the Withdrawal NPRM, comments to the SUNSET proposed rule and Withdrawal NPRM, and below, for example, in the following comment and response.

Comment: A variety of commenters including states, tribes, municipalities, hospital systems, insurers, healthcare providers, and patient advocacy organizations expressed support for the Withdrawal NPRM, citing the potential consequences of the SUNSET final rule creating uncertainty about the stability and predictability of HHS regulations and causing harm if HHS regulations were to actually expire. A number of commenters described the risk of such uncertainty for the Modified Adjusted Gross Income (MAGI) regulations, which are relied upon by states and state agencies to determine who is eligible for certain Medicare and Medicaid programs, Medicare Advantage, the Children's Health Insurance Program (CHIP), and insurance affordability programs through the Health Insurance Marketplace, as well as the consequences of such uncertainty for individuals in trying to ascertain their likely eligibility for these programs. Commenters underscored that Medicaid and CHIP are large, complex, Federal-state health insurance programs that affect not only all of the states and territories, but also millions of beneficiaries, tens of thousands of providers, and hundreds of managed care plans. They stated that these stakeholders have a legitimate expectation of stability in the Federal regulatory guidelines for these programs and that predictable and reliable Federal regulations are essential to facilitate their effective implementation, so that providers understand what their obligations are, and beneficiaries can understand what they are entitled to receive. Commenters emphasized the significance of these and other HHS administered healthcare programs for seniors, children, the disabled, low-income and rural communities, and other vulnerable segments of the population including people of color, members of the LGBTQ+ community, and others who suffer health disparities, and the dire consequences they would suffer if regulations were to expire under the SUNSET final rule and safety net programs were disrupted. Commenters noted that the SUNSET final rule is at odds with the policy goals of E.O. 14009, ''Strengthening Medicaid and the Affordable Care Act'', 86 FR 7793, by weakening the strong regulatory framework necessary for states to implement these complex programs that provide health care access to millions of otherwise uninsured Americans.

Other commenters described the potential impact of expiration on stakeholders in the food industry and on consumer confidence in the safety of food and medical products. They provided examples of harms that would result in the event FDA regulations concerning false and misleading medical product labeling and advertising, nutrition labeling, food safety, or food standards of identity were to expire. Comments on the SUNSET proposed rule provided numerous additional examples related to HHS programs, as discussed in the Withdrawal NPRM. 86 FR 59915–59917.

Response: We thank the commenters for illustrating the many ways participants across the health care system and other Department programs would be harmed if they could not depend on the integrity and reliability of HHS regulations. We agree that, beyond the harm of regulatory uncertainty, the damage from actual expiration of regulations could be severe. As explained in the Withdrawal NPRM and in Section III.B., we have determined that regulations are likely to expire under the SUNSET final rule. Expiration could cause serious harm to millions of stakeholders who rely on HHS programs, including underserved populations; upend established understandings across the public health spectrum as to how to comply with statutory requirements; and disrupt established industry standards that advance public health, create a level playing field for businesses, and boost consumer confidence. Because of these potential harms, we now conclude that the automatic expiration provision is contrary to the Department's mission to protect the health of all Americans and provide essential human services, especially for those who are least able to help themselves.

States, non-state government entities, hospitals and other health providers, insurers and managed care plans, and other key stakeholders in our country's health care system structure their programmatic and business operations to satisfy the current Federal regulations. These rules help beneficiaries and potential applicants to understand the coverage they are or may be entitled to receive, patients to understand their rights in accessing and receiving care, and providers to understand their patients' coverage. As discussed in the Withdrawal NPRM, the expiration of these regulations could mean that these and other regulated entities would be unsure how to comply with long-standing statutory requirements and may no longer be compelled to comply with long-standing safety standards. *See* 86 FR 59915–59917. Likewise, we now recognize, as discussed in Section V.D of this preamble, that the SUNSET final rule could result in rescinding rules in their entirety without a rule-specific justification or an opportunity for the public to comment on that justification, including identifying potential harms associated with the expiration.

2. Impacts on State, Local, and Tribal Governments

Comment: Several tribal organizations explained that the SUNSET final rule would undermine crucial regulatory protections for AI/ANs in accessing healthcare, including HHS regulations that are based in statute and developed through years of government-to-government consultation between Tribal Leaders and HHS Leadership. Tribal commenters expressed support for HHS's Withdrawal NPRM because the SUNSET final rule threatens the regulations intended to protect AI/ANs. These commenters also opposed the SUNSET final rule because they said the Department failed to abide by the HHS Tribal Consultation Policy and conduct tribal consultation to minimize the implications of this rule on tribal governments. One tribal commenter

expressed appreciation for the change of direction on the SUNSET final rule and hoped that the Department continues in this spirit of accounting for the impact of such decisions on Tribal Nations.

Response: HHS respects and appreciates the leadership and partnership of Tribal Nations in protecting the health of AI/ANs. The Department is committed to strengthening the Nation-to-Nation relationship between the United States and federally recognized Indian Tribes.

As discussed in the Withdrawal NPRM, HHS acknowledges that consultation with Tribal governments on the SUNSET proposed rule was not adequate. The Department also recognizes that it previously stated that the SUNSET final rule ''would have no direct impact on Indian Tribes, beyond their costs of participation in the monitoring, Assessment, and Review processes,'' based on an assumption that regulations would not expire. 86 FR 5711. However, we have now determined, and explained in detail throughout this preamble, that the Department's prior assumption that regulations would not expire was not well-founded. Therefore, HHS has revised its view of the impacts of the SUNSET final rule on Tribal Nations.

The IHS serves over 2.6 million AI/ANs and the Department recognizes that there are stark health disparities that persist in Tribal communities. The COVID–19 pandemic's devastating impact on Tribal communities has demonstrated the real human toll of these disparities. HHS concludes that the SUNSET final rule would only make it harder to expand access to high-quality health care across Indian Country, because it is likely to divert resources from HHS programs serving Tribes and introduce uncertainty and a threat of expiration for regulations that support HHS programs serving tribal communities. Likewise, the SUNSET final rule does not provide for advance notice of regulations that might automatically expire which would make it difficult for the Department or Tribes to initiate consultation. Moreover, even if these significant deficiencies could be improved, it would still not resolve more fundamental problems the SUNSET framework presents for tribal stakeholders, such as the burdens imposed on and uncertainties created for many stakeholders.

As discussed in the Withdrawal NPRM, HHS now acknowledges the SUNSET final rule conflicts with the Department's policy to engage in meaningful consultation. *See* 86 FR 55911. HHS believes finalizing the Withdrawal NPRM is consistent with the objectives of the January 26, 2021, Presidential memorandum on ''Tribal Consultation and Strengthening Nation-to-Nation Relationships,'' which reaffirmed the tribal consultation policy outlined in E.O. 13175, and announced that the Biden-Harris administration priority to make respect for Tribal sovereignty, self-governance, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy. 86 FR 7491.

Comment: A number of states, municipalities, and State attorneys general expressed concern that the SUNSET final rule would pose a direct threat to state health care systems and the health and safety of their residents. The commenters indicated that states are directly threatened by the SUNSET final rule because they depend on HHS to administer trillions of dollars in Federal funding, governed by an intricate web of regulations and requirements. A comment from State attorneys general explained that, by permitting complex regulatory systems to automatically expire, the SUNSET final rule could have dire consequences for those who stand to lose health benefits or services but have no recourse to prevent that loss. One commenter stated that the SUNSET final rule stands to undermine the operations of state partners, such as state Medicaid agencies, and would impede their ability to provide services for Medicaid beneficiaries.

Response: We agree that many diverse stakeholders throughout the country, including states, state Medicaid and other program agencies, and tribal governments, as well as health care providers, program beneficiaries, and others who rely on the legal framework established by the Department's regulations and their implementation of the relevant statutes, could experience undue disruption as a result of the SUNSET final rule. As discussed in the Withdrawal NPRM, the automatic, potentially haphazard and unpredictable expiration of regulations could result in significant disruption, based on the sudden and unexamined removal of the prior regulatory framework without accompanying explanation or replacement. We appreciate the comments highlighting challenges that this scenario could present for many stakeholders, including state and tribal governments.

3. Other Comments on Expiration

Comment: A few commenters expressed doubt that accidental and unintended expiration of regulations would occur and pointed to the experience of North Carolina and Missouri. Each of those states has an established process for the review of state regulations that features a sunset mechanism. One commenter stated that North Carolina's process resulted in no reports of accidental expirations. The commenter suggested that, because the quantity of HHS regulations is similar to the number of all regulations promulgated in North Carolina, the process should not be difficult for HHS to implement and avoid any expiration of a regulation. A second comment stated that Missouri connects a sunset provision to a five-year periodic review requirement in a manner similar to the SUNSET rule. The commenter shared a quote from the Missouri attorney general stating that they were not aware of any regulations that had expired as a result of Missouri's sunset provision and that state agencies review every regulation under their control.

Response: We address in greater detail in Section V.C the many significant differences between the SUNSET final rule and these and other state sunset laws—here we address only the specific points regarding the potential expiration of regulations. We disagree with these commenters in their assertions that we should extrapolate from these state examples to conclude that regulations would not expire under the SUNSET final rule because there are too many substantial differences to make a direct comparison helpful or appropriate. North Carolina's reviews are less burdensome overall because North Carolina's experience does not entail the multi-factor review and assessment required by the SUNSET final rule. We similarly find that Missouri's experience does not match the scale and scope of the SUNSET final rule's assessment and review scheme. For example, the most recent reports of the Missouri State Auditor responsible for assessing state agency compliance with periodic rule review found that the Missouri Department of Health and Human Services reviewed 759 rules and received no comments on its review and that the Department of Mental Health reviewed 156 rules and received 14 comments.[13] These rules represent a small fraction of the number of HHS regulations covering all of the HHS agencies and divisions, and the comment offers no analysis as to whether individual Missouri rules are

[13] *See* Nicole Galloway, Missouri State Auditor Report No. 2019–126 (Dec. 19, 2019) (available at *https://app.auditor.mo.gov/Repository/Press/2019126349658.pdf*); Nicole Galloway, Missouri State Auditor Report No. 2017–152 (Dec. 19, 2017) (available at *https://app.auditor.mo.gov/Repository/Press/2017152319255.pdf*).

comparable to HHS regulations in terms of length and complexity. Furthermore, HHS regulations are national in scope, have an impact on a much greater number of programs and persons, and cover more diverse circumstances than state regulations. In issuing its regulations, HHS also follows Federal procedures and policies as set forth in statutes, EOs, and Department memoranda, which are not applicable to states. Accordingly, the review of HHS regulations is likely to entail greater complexities and the level of public interest in the HHS rules is likely to be much higher, which would result in significantly more comments. Thus, the pace and resources required to review North Carolina's and Missouri's inventory of regulations are not indicative of what HHS would experience under the SUNSET final rule, including the likelihood of expiring regulations.

Moreover, as explained in Section III.B., implementation of the SUNSET final rule would require the Department to choose how to prioritize its resources as between (1) addressing existing and new priorities, including promulgating new congressionally directed regulations, and (2) preserving regulations from expiration. The fact that certain states with ''sunset'' programs can, and have chosen to, allocate resources in a way that preserves their regulations from expiration does not in any way imply that HHS would or could make the same choices in confronting this question. As explained above, we have considered the overall burdens and the ways in which full implementation of the SUNSET program would undermine other Department objectives, and we have concluded that prioritizing resources on SUNSET compliance, in order to avoid regulatory expiration, is not in the best interests of the public health and welfare. Therefore, we think regulations will expire. Whether states have made different choices does not determine the Department's analysis regarding its obligations and priorities.

C. Comments on the RFA and Retrospective Review

In the Withdrawal NPRM, we tentatively concluded that the final rule may be harmful to small entities, inconsistent with Congress's intent in enacting the RFA, and unnecessary to achieve the RFA's objectives or to incentivize the Department to engage in retrospective review. 86 FR 59917. In this section, we respond to the comments submitted both on policy issues related to retrospective review and on compliance with the RFA.

1. SUNSET Final Rule's Degree of Consistency With the RFA

Comment: Numerous commenters supported withdrawal of the SUNSET final rule as inconsistent with the RFA. Many of these commenters agreed with HHS's assertion in the Withdrawal NPRM that the SUNSET final rule imposes requirements beyond the requirements of the RFA. Several of these commenters noted that the RFA focuses on review of only those rules that have or will have a ''Significant Economic Impact Upon a Substantial Number of Small Entities'' (SEISNOSE), and the SUNSET rule exceeds that scope because it requires assessment of all agency rules regardless of whether they have a SEISNOSE. One commenter noted that the majority of the regulations to which the SUNSET final rule applies do not actually fall within the scope of the RFA, citing the SUNSET final rule's assumptions, which estimate that only 15% of the Department's regulations have a SEISNOSE. Commenters also questioned HHS's authority to impose the SUNSET rule's requirements for the scale and speed of assessments and reviews in the absence of express authorization in the RFA. One commenter noted that courts have uniformly recognized the limited scope of the RFA and that the SUNSET final rule's expansion of the RFA's requirements finds no support in the text or purpose of the statute. Several commenters also noted that the RFA does not authorize agencies to retroactively impose a blanket expiration date to rescind regulations.

Response: The Department agrees with these commenters that the SUNSET final rule's requirements exceed the RFA's requirements. Specifically, the Department agrees with the commenters who noted that the rule's requirement that the Department ''assess'' all HHS regulations within certain timeframes, to determine whether the regulations have or will have a SEISNOSE, exceeds the express requirements of section 610 of the RFA, which contemplates periodic review of only ''rules . . . which have or will have a [SEISNOSE].'' Nothing in the express language of that section requires agencies to identify such rules by conducting ''assessments'' of every rule issued by the agency and to comply with the SUNSET final rule's notice and comment requirements for such assessments. Indeed, section 610 does not specify any means of identifying rules that have or will have a SEISNOSE. Section 610(a)'s silence with respect to identifying rules that have or will have a SEISNOSE, when contrasted with other provisions of that section explicitly imposing specific requirements on agencies' retrospective reviews, *see, e.g.,* 5 U.S.C. 610(b) (requiring agencies to consider specific enumerated factors when conducting reviews), indicates that Congress intended to leave such determinations to agencies' discretion. *See Fisher* v. *Pension Benefit Guar. Corp.,* 994 F.3d 664, 671 (D.C. Cir. 2021) (''In an administrative setting, . . . 'the contrast between Congress' mandate in one context with its silence in another suggests . . . a decision *not to mandate* any solution in the second context, *i.e.,* to leave the question to agency discretion.' '').

Judicial decisions have reinforced agencies' discretion under the RFA. As the D.C. Circuit has explained, ''the Act in and of itself imposes no substantive constraint on agency decisionmaking,'' *Nat'l Tel. Co-op Ass'n* v. *FCC,* 563 F.3d 536, 540 (D.C. Cir. 2009), but instead is limited to ''setting out precise, specific steps an agency must take,'' *Aeronautical Repair Station Ass'n, Inc.* v. *FAA,* 494 F.3d 161, 178 (D.C. Cir. 2007). Courts have therefore instructed that the RFA ''requires nothing more than that the agency . . . demonstrate[e] a reasonable, good faith effort to carry out'' those steps. *U.S. Cellular Corp.* v. *FCC,* 254 F.3d 78, 88 (D.C. Cir. 2001); *Aeronautical Repair Station,* 494 F.3d at 178 (''[Section 604 of] the Act requires agencies to publish analyses that address certain legally delineated topics. Because the analysis at issue here undoubtedly addressed all of the legally mandated subject areas, it complies with the Act.''); *see also Montgomery Cty., Maryland* v. *Fed. Commc'ns Comm'n,* 863 F.3d 485, 495 (6th Cir. 2017) (upholding agency's final regulatory flexibility analysis as ''procedurally adequate''); *Zero Zone, Inc.* v. *United States Dep't of Energy,* 832 F.3d 654, 683 (7th Cir. 2016) (citing *U.S. Cellular Corp.,* 254 F.3d at 88); *Alenco Commc'ns, Inc.* v. *FCC,* 201 F.3d 608, 625 (5th Cir. 2000) (citing *Assoc. Fisheries of Me., Inc.* v. *Daley,* 127 F.3d 104, 114 (1st Cir. 1997)).

In addition to not being mandated by the RFA, the assessment process in the SUNSET final rule is an overly burdensome and unnecessary means of identifying rules that have or will have a SEISNOSE. In fact, as discussed in more detail below, we now question whether the assessment process is a reasonable exercise of the Department's discretion in light of the purpose and language of the RFA. As noted by one commenter, based on the Department's assumptions in the RIA of the SUNSET

final rule, which are adopted in the RIA of this final rule, only 530, or approximately 15%, of the Department's rulemakings impose a SEISNOSE, whereas the SUNSET rule estimates the Department would need to assess a total of 3,574 rulemakings in order to identify those rules. The Department continues to believe that, had Congress intended for section 610 to mandate such a burdensome process for identifying a minority of rulemakings that have or will have a SEISNOSE, it would have said so explicitly. *See Whitman* v. *Am. Trucking Ass'ns,* 531 U.S. 457, 468 (2001) (Congress ''does not[ ] . . . hide elephants in mouse holes''). Moreover, as explained in Section V.C.2 of this rule and the Withdrawal NPRM, conducting assessments of all HHS rules is not the only available means of identifying rules with a SEISNOSE, as commenters have identified numerous more targeted, efficient, and effective alternatives for identifying regulations that have or will have a SEISNOSE. We further note that, although the RFA applies across numerous government agencies, HHS is not aware of any department or agency issuing a similar sunset regulation or any litigation asserting that any department or agency, including HHS, has violated the RFA by failing to implement a rule like the SUNSET final rule.

Moreover, as explained in the Withdrawal NPRM, principles of statutory construction do not support broadly interpreting section 610 to require agencies to simultaneously consider all regulations and do so on a recurring basis to determine whether they have or will have a SEISNOSE. Section 610(a) mandates that agencies publish a plan providing for a one-time simultaneous reexamination of regulations that have or will have a SEISNOSE. Had Congress intended for this plan to provide for simultaneous review that applies more broadly to all regulations and on a recurring basis, it would have said so. *See, e.g., Salinas* v. *U.S. R.R. Retirement Bd.,* 141 S. Ct. 691, 698 (2021) (quoting *Russello* v. *United States,* 464 U.S. 16, 23 (1983) (''Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.'')).

The Department also agrees with commenters that the SUNSET final rule's automatic expiration provision—providing for the automatic expiration of any rule issued by the Department if it is not timely assessed or, as applicable, reviewed—exceeds the express requirements of the RFA. As explained in the Withdrawal NPRM, section 610 neither provides for automatic expiration of rules nor presumptively applies automatic expiration dates to regulations. Rather, it merely contemplates rescission or revision of rules, through the standard notice and comment rulemaking processes, only if they have or will have a SEISNOSE and if the Department has determined, based on its review of the factors set forth in section 610, that such rules should be rescinded or revised to minimize any SEISNOSE. We also note that section 608(b) of the RFA explicitly provides: ''If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final, such rule shall lapse and have no effect.'' The absence of any similar language in the RFA requiring rules to automatically lapse if an agency fails to comply with section 610 suggests that Congress did not intend for noncompliance with section 610 to have such an effect. *See, e.g., Salinas,* 141 S. Ct. at 698.

The Department also notes that other requirements in the SUNSET final rule extend beyond the express requirements in the RFA. For example, the SUNSET final rule's requirements for public notice and comment procedures with respect to assessments—such as publishing in the **Federal Register** a notice within a month of commencing an assessment as well as a notice of the results of all assessments—extend beyond section 610's notice and comment requirements. Although section 610 requires notice and comment procedures for retrospective review of rules which have or will have SEISNOSE,[14] it does not require notice and comment procedures for the Department's determinations of which regulations have or will have a SEISNOSE. Additionally, the SUNSET final rule's expedited five-year timeline for the completion of certain reviews and two-year timeline for amending or rescinding regulations following such reviews go beyond the express requirements of section 610(a), which contemplate only that reviews of rules under that section be conducted ''within ten years'' of specific dates.[15]

Additionally, the Department agrees with commenters that the automatic expiration provision and other requirements imposed by the SUNSET rule otherwise lack support in the language and purpose of the RFA. For the reasons already explained, the RFA does not explicitly impose or authorize these requirements. Moreover, as explained in the Withdrawal NPRM, these requirements appear to be inconsistent with the intent and purpose of the RFA as expressed in the statute's language and legislative history. Specifically, the automatic expiration provision—by providing for the automatic expiration of rules without consideration of the impact of the rules on small entities or the statutory objectives the rule implements—appears to be inconsistent with the RFA's intent to balance the objectives of the RFA with the objectives of statutes critical to public health. Congress expressed this intent in the language of section 610(a) itself, which contemplates the rescission of rules only if ''consistent with the stated objectives of applicable statutes'' and if the agency has determined that that the rule should be rescinded ''to minimize any significant economic impact of the rules upon a substantial number of . . . small entities.'' The RFA's legislative history further expresses this intent, stating that Congress did not intend for the RFA's requirements to ''undermine . . . important [regulatory] achievements,'' specifically those in the area of public health. 126 Cong. Rec. 21,448, 21,451 (August 6, 1980) (statement of Sen. Culver, sponsor of S. 299, which was ultimately enacted as amended as the RFA); *see also* S. Rep. 96–878 (1980) (''The Committee is emphatically opposed to any weakening of the legislatively mandated goals of federal regulation in the name of cost reduction. The bill clearly stipulates that there is to be no loss of regulatory goals. The language states that agencies shall seek and consider alternative proposals to the proposed rule 'consistent with the stated objectives of applicable statutes.''). Rather, Congress intended that ''agencies . . . continue to enforce [substantive] laws in a fully effective fashion,'' *id.,* and that ''environmental, health or safety catastrophes must never be made more likely because of flexible regulations,'' *id.* at 21,455 (Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299).

In addition to the automatic expiration provision, other SUNSET final rule requirements exceeding the express requirements of section 610

[14] *See* 5 U.S.C. 610(c) (requiring agencies to publish in the **Federal Register** a list of rules to be reviewed during the succeeding twelve months as well as invite public comment on rules to be reviewed).

[15] We note that, as discussed in Section V.D, expanding these timeframes would not resolve the myriad of problems with the SUNSET final rule discussed throughout this preamble, such as the burdens, confusion, and uncertainty imposed on stakeholders.

appear inconsistent with the RFA's intent. As explained previously in this preamble and in the Withdrawal NPRM, compliance with the SUNSET final rule's requirement to assess thousands of regulations within certain timeframes would require the agency to divert resources from the Department's significant public health objectives and potentially impair its ability to achieve those objectives. The RFA's legislative history indicates that such a burden imposed by assessments would be contrary to Congress's intent that ''regulatory flexibility legislation [not] undermine . . . important [regulatory] achievements.'' 126 Cong. Rec. 21,451 (statement of Sen. Culver); *see also id.* at 21,455 (Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299) (addressing concerns that the RFA ''might require agencies to significantly compromise the objectives of underlying statutes authorizing rulemaking''). Such burdens on the Department's ability to achieve important statutory objectives related to public health also appear inconsistent with the RFA's intent to enhance administrative efficiency in the achievement of such objectives. *See* 126 Cong. Rec. 21,456 (Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299) (emphasizing that ''regulatory flexibility should be considered a means of improving administrative effectiveness in enforcing the regulatory statutes which the Congress has enacted rather than an additional bureaucratic burden''); *see also* S. Rep. 96–878 (stating that S. 299's findings include ''that reasonable alternative rules and regulations could be developed . . . without a significant loss of regulatory efficiency'').

Furthermore, the SUNSET final rule's requirements exceeding the express requirements of section 610 also appear to be inconsistent with the RFA's purpose of alleviating the regulatory burden on small entities. *See, e.g.,* 126 Cong. Rec. 21,449 (Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299) (explaining that the RFA seeks to address the ''unnecessary and disproportionately burdensome demands . . . [of uniform regulatory requirements] upon small [entities] . . . with limited resources''). As discussed in Section V.A and V.B of this preamble, the regulatory uncertainty created by the sudden expiration and threat of sudden expiration of regulations would disproportionately burden small entities who rely on regulations to level the playing field and lack the resources to successfully navigate a confusing regulatory landscape. *See* 126 Cong. Rec. 21,453 (Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299) (finding that small entities often have limited access to regulatory expertise and capital as compared to larger businesses). Additionally, the scope of and compressed timelines for the assessments required by the SUNSET final rule would undermine small entities' ability to provide input and data and otherwise participate in the assessment and review process, as well as undermine the Department's ability to meaningfully consider such information. Such a result would be inconsistent with the RFA's intent to ''give small businesses a greater opportunity to participate in shaping rules which would affect them.'' 126 Cong. Rec. 21,451 (statement of Sen. Culver). This result would also undermine the quality of the Department's reviews and, therefore, the Department's ability to accomplish the purpose of retrospective reviews as stated in section 610(a), which is ''to minimize any significant economic impact of the rules upon a substantial number of such small entities.''

For these reasons, the Department agrees with the commenters that the SUNSET final rule's requirements exceed the express requirements of the RFA and appear to be inconsistent with the intent and purpose of the RFA as expressed in the statute's language and legislative history, as well as case law interpreting the statute. We recognize that we previously took the position, in the SUNSET final rule, that the ''rule does not impose any additional burden on the Department beyond what was already called for in the RFA,'' 86 FR 5705, but after further considering the RFA and its legislative history, we now consider that prior position erroneous.

Comment: Several commenters asserted that the SUNSET final rule, including its automatic expiration provision, is consistent with section 610 of the RFA. One commenter stated that the SUNSET rule accomplishes nothing new, different from, or contrary to the RFA because the RFA expressly contemplates rule rescission as one of the outcomes of retrospective review, and the SUNSET rule's automatic expiration provision preserves rule rescission as one of the options available to HHS upon completion (or not) of retrospective review under the RFA. Another commenter claimed that a 10-year automatic expiration provision seems entirely appropriate and consistent with the RFA's Congressional intent based on the view that the RFA already requires HHS to conduct 10-year reviews under section 610. Another commenter stated that the SUNSET rule is consistent with section 610 because it simply establishes an enforcement mechanism for that section. One commenter questioned the Department's conclusion that the SUNSET final rule's assessment requirement goes beyond the requirements of section 610 and states that the Department must assess rules to determine whether a rule has or will have a SEISNOSE under section 610. The commenter also noted that assessments of rules not previously identified as having a SEISNOSE would impose a ''minimal burden'' because ''[i]t is likely that most of th[ose] . . . regulations would remain'' without a SEISNOSE and therefore ''only a simple assessment of these rules would be necessary.''

Response: The Department disagrees with the commenters that the SUNSET final rule, including the automatic expiration provision, is no different from and consistent with the RFA, for the reasons already explained in the prior comment response.

Specifically, with respect to the automatic expiration provision, the RFA contains no explicit or implicit authority for an automatic expiration provision, and such a provision is inconsistent with the RFA's intent and purpose. Thus, the Department disagrees with the commenter that the automatic expiration provision is not different from or inconsistent with the requirements in the RFA. Although section 610 of the RFA does contemplate rule rescission as a potential outcome of retrospective review, it contemplates rescission of rules only through the standard notice-and-comment process. Furthermore, that outcome would apply only to rules that have or will have a SEISNOSE and for which the agency has conducted a review considering the factors set forth in section 610 and has determined, in its discretion and based on the results of the review, whether the rule at issue ''should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities.'' 5 U.S.C. 610(a). In contrast, the automatic expiration provision explicitly mandates automatic rescission of any rule, regardless of whether it has or will have a SEISNOSE, not based on the agency's consideration of the relevant statutory factors or the potential for rescission to minimize SEISNOSE, but simply based on the agency's failure to conduct an assessment or review of the rule within certain timeframes. Therefore, the

commenter is incorrect that the automatic expiration provision can be equated to or is consistent with the rescission of rules under the RFA. Furthermore, as explained above, section 608(b) of the RFA explicitly requires rules to automatically ''lapse and have no effect'' if the agency fails to timely prepare a final regulatory analysis pursuant to section 604, and the absence of any similar language in the RFA requiring rules to automatically lapse if an agency fails to comply with section 610 suggests that Congress did not intend for noncompliance with section 610 to have such an effect. *See, e.g., Salinas,* 141 S. Ct. at 698.

The Department also disagrees with commenters that the SUNSET final rule's automatic expiration provision is consistent with section 610 because that section already requires agencies to conduct 10-year reviews or because the rule simply provides an enforcement mechanism for section 610's review requirements. As already explained in the prior comment response, the SUNSET final rule's requirement that agencies assess thousands of rules without a SEISNOSE, in some cases within an expedited five-year timeframe, exceeds the express requirements of section 610. Therefore, by mandating automatic expiration of rules without a SEISNOSE when the Department fails to timely assess them, the rule's automatic expiration provision does not seek to enforce only the requirements of section 610 but also requirements not expressly imposed by that section. Moreover, the Department notes that section 611(a) of the RFA already provides a remedy for agency noncompliance with section 610: Judicial review of such noncompliance and any relief deemed appropriate by the reviewing court.

Additionally, the Department disagrees with the comment that the SUNSET final rule's assessment requirement is necessary under or consistent with section 610. Indeed, HHS is not aware of any other Federal department or agency implementing a rule similar to the SUNSET final rule. As explained in the previous comment response, although section 610 implicitly contemplates that agencies have some means of identifying rules with a SEISNOSE for retrospective review, it does not require agencies to conduct ''assessments'' of every rule and comply with the notice and comment requirements for such assessments. Rather, it is silent with respect to how agencies identify rules with SEISNOSE for review. This indicates that Congress intended to leave these determinations to agencies' discretion, *see Fisher,* 994 F.3d at 671, and the Department, in its discretion, has now determined that the assessment process in the SUNSET final rule is overly burdensome and unnecessary for making such determinations.

Moreover, the commenter's suggestion that assessments would impose a ''minimal burden'' is not persuasive. The only support the commenter cited for this assertion is its speculation that assessments of rules previously identified as not having a SEISNOSE would be ''simple'' because ''[i]t is likely that most of th[ose] . . . regulations would remain'' without a SEISNOSE. However, even if the commenter is correct that such rules are likely to remain without a SEISNOSE, the SUNSET final rule would still require the Department to assess them to determine whether that is the case, and in doing so, the Department would need to examine any relevant experience with the rule since its promulgation. Furthermore, the commenter failed to acknowledge that even assessments that are potentially more straightforward than others would still be subject to the extensive requirements the SUNSET final rule imposes on every assessment, including requirements for announcing the assessment on the website and in the **Federal Register**, opening a public docket, considering comments to the docket, and publishing the full results in the **Federal Register**. Given these requirements, the Department does not agree with the commenter that any assessment under the SUNSET final rule would be ''simple'' or that the assessment process as a whole would impose a ''minimal burden.''

2. HHS Compliance With the RFA

Comment: Several commenters contended that withdrawal of the SUNSET final rule violates the RFA because, without the rule, the Department would not comply with section 610. These commenters asserted that HHS historically has not complied with section 610, and withdrawal of the rule would allow the Department to continue its noncompliance. Some of these commenters maintained that the SUNSET final rule is HHS's current ''plan'' for periodic review under section 610(a), and therefore repealing it will leave HHS without the required plan. One commenter asserted that HHS cannot repeal the SUNSET final rule because section 610 allows agencies only to ''amend'' their plans for retrospective review. Another commenter asserted that HHS has failed each year to ''publish in the **Federal Register** a list of the rules . . . which are to be reviewed pursuant to . . . section [610] during the succeeding twelve months'' under section 610(c). The commenters also claimed that the RFA requires (''shall provide for'') that HHS conduct the retrospective reviews identified in section 610 on the timelines provided for in that section, and that HHS has not adequately conducted such reviews.

Response: We disagree with these commenters' assessments of the history of the Department's compliance with the RFA and predictions about the Department's future plans with respect to the RFA. As noted by commenters, section 610 requires agencies to: Publish in the **Federal Register** a plan for the periodic review of the rules issued by the agency which have or will have a SEISNOSE; and each year publish in the **Federal Register** a list of the rules which have a SEISNOSE and are to be reviewed pursuant to section 610 during the succeeding twelve months. HHS has complied with these requirements.

First, following the enactment of the RFA, on July 14, 1981, the Department published in the **Federal Register** its plan for periodic review as required by section 610(a).[16] That plan provides for, among other things, the Department's review of regulations that have or will have a SEISNOSE and identifies processes and principles that guide such reviews, including principles for prioritizing those reviews.[17] Accordingly, the Department has had a plan in place since shortly after the enactment of the RFA. Second, in accordance with that plan and section 610(c), the Department each year publishes in the **Federal Register** a list of the rules with a SEISNOSE that it is reviewing, has reviewed, or intends to review under section 610, along with a discussion of the Department's

[16] *See* Notice of Plan for Periodic Review of Rules, 46 FR 36332 (July 14, 1981). We note that FDA simultaneously published in the **Federal Register** its own plan for periodic review of its rules as a supplement to the Department's plan. *See* Notice, 46 FR 36333 (July 14, 1981) (''This notice supplements the Department plan with additional information about FDA procedures for reviewing existing rules.'').

[17] *See, e.g.,* 46 FR 36332 (''[T]he Department and those staff divisions which administer rules will inventory and review all regulations for the purpose of selecting those regulations that should receive early, in depth review and revision, where necessary, to reduce regulatory burdens'' and identifying principles to guide prioritization of review of existing regulations); *id.* (''[A]gencies and offices of the Department will seek to identify for earliest review those regulations for which revision will most advance [certain] principles,'' including ''[m]inimiz[ing] Federal, State, local, and private costs'' and ''[p]revent[ing] fraud, abuse, waste, and inefficiency''); *id.* (''The Department's semiannual agenda will advise the public of regulations selected for review''); *id.* at 36333 (''[I]t is important that to the extent possible the more costly and burdensome rules by reviewed first'').

commitment to compliance with the requirements and intent of section 610.[18] As required by section 610(c), this document includes for each such rule a brief description of the rule, its legal basis, and the opportunity for public comment.[19] Therefore, the commenters are incorrect that withdrawal of the SUNSET final rule would leave the Department without a plan for the periodic review of rules as required by section 610(a), or that HHS does not comply with section 610(c). The commenters have not cited any authority that either of these sections requires more.[20]

The Department also disagrees with the commenter that it cannot repeal the SUNSET final rule because section 610 permits agencies to only ''amend[]'' their plans for retrospective review. However, the language the commenter cites—''[s]uch plan may be amended by the agency at any time,'' 5 U.S.C. 610(a)—is a broad grant of authority to agencies with respect to amending their plans for retrospective review, not a limitation. *See, e.g., Adirondack Med. Ctr.* v. *Sebelius,* 740 F.3d 692, 698 (D.C. Cir. 2014) (''Congress generally knows how to use the word 'only' when drafting laws.''). This interpretation of section 610(a) is also consistent with Congress's intent as expressed in the remaining language of that provision, which sets forth the general requirement that agencies publish plans for retrospective review but does not further specify how agencies develop and implement those plans. Such language stands in stark contrast to section 610(b), which explicitly imposes specific requirements on agencies' retrospective reviews. *See Fisher,* 994 F.3d at 671 (''In an administrative setting, . . . 'the contrast between Congress' mandate in one context with its silence in another suggests not a prohibition but simply a decision *not to mandate* any solution in the second context, *i.e.,* to leave the question to agency discretion.' '').

We also disagree with the assertion in the comments that the SUNSET final rule is HHS's current ''plan.'' As described above, HHS has had a retrospective review plan in place since 1981, which was unacknowledged in the SUNSET final rule. Under that plan, among other things, the Department reviews regulations that have or will have a SEISNOSE and identifies processes and principles that guide such reviews, including principles for prioritizing those reviews. Because the SUNSET final rule never became effective, the Department has never implemented the SUNSET final rule as its retrospective review plan. Instead, HHS's longstanding plan remains operative.

Furthermore, as discussed in the Withdrawal NPRM and as noted by the commenters to that proposal, the Department has a meaningful track record of retrospective regulatory review. HHS conducts retrospective reviews of its regulations with impacts on small entities and publishes notice of the reviews in the **Federal Register**. Additionally, as acknowledged in the SUNSET final rule, the Department in 2016 and 2019 issued final rules resulting from section 610 reviews updating the requirements of participation in the Medicare and Medicaid programs for hospitals and critical access hospitals [21] and long-term care facilities.[22] These rulemakings, among other things, allowed these entities greater flexibility in meeting the requirements and eliminated unnecessary, obsolete, or overly burdensome requirements.[23]

As described in the Withdrawal NPRM and as noted by commenters to that proposal, the Department also has undertaken several other recent and significant retrospective regulatory review efforts. Several commenters noted the 2015 CMS initiative to modernize Medicaid Managed Care regulations for Medicaid and CHIP beneficiaries, and we also noted in the Withdrawal NPRM that the CMS Office of Burden Reduction and Health Informatics works to eliminate over-burdensome and unnecessary regulations. Commenters additionally noted that the Department's 2011 Plan for Retrospective Review of Existing Rules,[24] an initiative developed in accordance with E.O. 13563 and E.O. 13610, and plans the Department subsequently published from Fiscal Year 2012 through 2016, have served as a framework for its retrospective review of existing regulations. Under these plans, the Department identified rules that could be potentially eliminated as obsolete, unnecessary, burdensome, or counterproductive or that could be modified to be more effective, efficient, flexible, and streamlined. Additionally, as noted in the Withdrawal NPRM, the Department, in response to E.O. 13771, ''Enforcing the Regulatory Reform Agenda,'' established a Regulatory Reform Task Force that oversaw an effort to evaluate existing regulations and make recommendations to the Secretary regarding their repeal, replacement, or modification, consistent with applicable law. While this E.O. has since been revoked, the published summary reports of these reviews for Fiscal Years 2018–2020 are available on the HHS website.[25]

Also noted in the Withdrawal NPRM, numerous additional regulatory efforts by HHS routinely involve the review of regulations. The Department provides technical assistance to Congress on proposed legislation, which quite often requires an assessment of the proposal's impact on current regulations. FDA also reviews regulations in responding to certain citizen petitions submitted

[18] *See, e.g.,* Semiannual Regulatory Agenda, 86 FR 16892 (Mar. 31, 2021) (publishing under the RFA and E.O. 12866 the Department's ''semiannual . . . inventory of rulemaking actions under development throughout,'' including ''as required by the [RFA] . . . , those prospective HHS rulemakings likely to have a [SEISNOSE],'' ''offering for public review summarized information about forthcoming regulatory actions the Department,'' and describing and identifying examples of the Department's ''agency-wide effort to support the [Regulatory] Agenda's purpose of encouraging more effective public participation in the regulatory process'').

[19] *See, e.g., id.* The Department also submits this information regarding rules it has identified for periodic review under section 610 in its submissions to the Unified Agenda. One commenter maintained that these Unified Agenda submissions cannot satisfy section 610 because they are not published in the **Federal Register** and they are not contained in a single document. However, as explained above, the Department publishes information satisfying section 610 in the **Federal Register** as a single document. *See, e.g.,* Regulatory Information Service Center, Introduction to the Unified Agenda of Regulatory and Deregulatory Actions—Fall 2021, 87 FR 5002, 5009 (Jan. 31. 2022).

[20] Congress considered and rejected a provision included in an earlier version of the bill that would have supported the commenter's position. *See* 46 FR 21449 (section 5(a) of S. 299, which was amended before being enacted as the RFA, included the following: ''Each agency shall periodically review its rules and regulations in accordance with the schedule and criteria set forth in its published plan.'').

[21] *See* Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, and Improvement in Patient Care, 84 FR 51732 (Sept. 30, 2019) (RIN 0938–AT23); *see also* Semiannual Regulatory Agenda, 84 FR 29633 (June 24, 2019) (merged with 0938–AT23).

[22] *See* Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities, 81 FR 68688 (Oct. 4, 2016); *see also* Regulatory Agenda, 81 FR 94754 (Dec. 23, 2016) (0938–AR61).

[23] *See, e.g.,* Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, andImprovement in Patient Care, 84 FR 51732 (Sept. 30, 2019).

[24] Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011).

[25] FY 2021 Annual Performance Plan and Report—Regulatory Reform, HHS, *https://www.hhs.gov/about/budget/fy2021/performance/regulatory-reform/index.html.*

under 21 CFR 10.30, requesting changes in FDA regulations. Additionally, it is common for new HHS regulations to amend, revise, or modify sections of regulations in order to update, replace, or rescind requirements, or to add new definitions or clarifications, which inherently entails review of these sections.[26] As another example, regulations are reviewed to determine if guidance documents are needed to provide recommendations for complying with the regulation, which is particularly important when the regulation is necessarily general or broad to accommodate scientific and other innovation changes, and guidance is helpful to consider applicability of the regulatory provisions.

All of these initiatives demonstrate HHS's commitment to reviewing its regulations. Thus, the suggestion in the comments that HHS will not adequately conduct periodic review under section 610 of the RFA moving forward absent the rule is groundless and speculative. HHS is committed to effective and appropriate retrospective review of its regulations and looks forward to exploring ways to improve its processes through means other than binding regulations.

Accordingly, the Department believes that the SUNSET rule is not necessary to ensure its compliance with section 610 and that its ability to undertake regulatory review efforts in the future would be undermined by complying with the unnecessary and burdensome requirements of the SUNSET final rule.

Comment: Several comments asserted that HHS has essentially admitted in the SUNSET final rule that, absent the rule, it does not otherwise comply with the RFA. One comment asserted that HHS admitted in the SUNSET final rule that ''all prior plans'' for retrospective review did not meet the requirement to publish a plan under section 610 ''because each prior plan hopelessly failed to provide for any review of each regulation within ten years, if ever.'' The comment also cited the following statements in the SUNSET final rule: HHS has had ''limited success in performing retrospective regulatory review,'' 86 FR 5738; ''the Department's efforts to comply with 5 U.S.C. 610 have at times been lacking,'' *id.* at 5696; and ''The Department's experience over the last forty years is that, absent a strong incentive such as the potential expiration of a regulation, the Department will not review an adequate number of its regulations,'' *id.* at 5739. Another comment asserted that HHS admitted that many of its rules have remained untouched for years. Two of these comments questioned the Withdrawal NPRM's assertion that many rules have remained untouched because they work as intended, asserting that the Withdrawal NPRM does not provide evidence to support this assertion. One comment asserted that if a rule finalized in the 1980s or 1990s is working as intended, that means it is likely out of date because rule's drafters could not have envisioned the technological and informational improvements that have taken place since the rule's promulgation.

Response: The Department disagrees with the comments that the SUNSET final rule concluded or demonstrated that HHS does not comply with the RFA absent that rule, but, to the extent that the SUNSET final rule is understood to convey that conclusion, we now think that conclusion is wrong. First, the SUNSET final rule does not state that ''all prior plans'' for the Department's retrospective review do not satisfy section 610(a), nor could it. For example, as explained in a prior comment response, the Department in 1981 published in the **Federal Register** a plan for retrospective review that directly responds to the requirements under the RFA and provides for the Department's periodic review of regulations that have or will have a SEISNOSE.[27] Thus, HHS fulfilled section 610(a)'s ''plan'' requirement long before the promulgation of the SUNSET final rule. Notably, the SUNSET final rule does not even refer to this plan, let alone assert that it does not satisfy section 610(a)'s requirements.

Second, neither the statements from the SUNSET final rule cited by the comments, nor the evidence cited for those statements, establish noncompliance or support the comments' conclusion that HHS does not otherwise comply with the RFA. For example, the SUNSET final rule's statement that the Department has had ''limited success in performing retrospective regulatory review'' does not assert that the Department does not comply with section 610 specifically. As the SUNSET final rule shows, the Department under the previous administration expressed the policy position that extensive retrospective review, across the Department's entire regulatory portfolio, was appropriate and should be prioritized above other Department priorities; its statements of ''limited success,'' ''lacking'' efforts, and ''adequate'' review must be understood in the context of these prior expectations and priorities rather than compliance with the RFA. Furthermore, the evidence the Department cited as support also does not specifically pertain to the Department's section 610 reviews or necessarily reveal anything about them. Specifically, this evidence includes: (1) An artificial intelligence (AI) data analysis of HHS regulations identifying that ''85% of Department regulations created before 1990 have not been edited; the Department has nearly 300 broken citation references in the CFR; and there are more than 50 instances of HHS regulatory requirements to submit paper documents in triplicate or quadruplicate''; and (2) a 2018 study estimating that 68% of Federal regulations have never been updated. 86 FR 5710. The SUNSET final rule does not assert that the HHS regulations identified in this analysis are regulations with a SEISNOSE subject to section 610, and there appears to be no reason to assume that is the case. *See* 86 FR 5710 (acknowledging that AI ''cannot at this time easily determine if a regulation satisfies the criteria listed in 5 U.S.C. 610''). Indeed, based on the SUNSET final rule's estimate that only 15% of the Department's regulations have or will have a SEISNOSE, it is possible that none of the regulations identified in either study are rules that have or will have a SEISNOSE. Thus, there appears to be no reason to conclude that the rules identified as unedited or flawed are rules with SEISNOSE that should be reviewed under section 610.[28]

Another HHS statement cited by the comment—that ''the Department's efforts to comply with 5 U.S.C. 610 have at times been lacking,'' 86 FR 5696—also does not assert or establish that the Department does not comply with section 610. The statement merely suggests a belief that, ''at times,'' the Department could have improved its processes for retrospective review under section 610. It does not explicitly assert that the Department, then or now, fails to comply with the RFA. Additionally, like the data discussed above, the data the statement cites as support does not

[26] For example, the regulations FDA issued to implement FSMA included both the addition of new sections of regulation and revisions and modifications to existing sections. *See* FSMA Rules & Guidance for Industry (available at *https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-rules-guidance-industry#Rules*).

[27] *See* Notice of Plan for Periodic Review of Rules, 46 FR 36332 (July 14, 1981).

[28] Commenters to the SUNSET proposed rule also expressed concern that the methodology of the AI review was never made public, and the SUNSET final rule confirmed that the ''Department did not notify the public about this research project.'' 86 FR 5710.

pertain specifically to reviews conducted under section 610. Specifically, the statement cites the number of retrospective analyses the Department has conducted in response to E.O. 13563. 86 FR 5696. However, E.O. 13563, unlike section 610, does not contemplate periodic review of only rules with a SEISNOSE for the purpose of minimizing SEISNOSE but instead applies to ''existing significant regulations'' for the purpose of assessing a far broader set of factors not focused on small entities, including ''whether any such regulations should be modified, streamlined, expanded, or repealed . . . to make [an] agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' *See* Improving Regulation and Regulatory Review, 76 FR 3821, 3822 (Jan. 18, 2011). Therefore, the Department's reviews conducted in response to that E.O. do not necessarily indicate anything about the number of reviews the Department has conducted or should consider conducting under section 610. The SUNSET final rule itself appears to recognize the limited value of these data by concluding only that ''[t]hese findings *are consistent with* government assessments that the Department's efforts to comply with 5 U.S.C. 610 have at times been lacking.'' 86 FR 5696 (emphasis added).

The final HHS statement cited by the commenter—''The Department's experience over the last forty years is that, absent a strong incentive such as the potential expiration of a regulation, the Department will not review an adequate number of its regulations''—is equally flawed. Again, this statement does not explicitly address the adequacy of the Department's reviews of regulations under section 610 but only generally refers to ''review . . . of [ ] regulations.'' Moreover, as explained above, the statement's implication that the Department has not conducted an ''adequate'' number of reviews must be understood in the context of the Department's policy position under the previous administration that extensive retrospective review across its entire regulatory portfolio was appropriate and should be prioritized above other agency priorities.

Third, the SUNSET final rule's discussion of the Department's section 610 compliance and record of retrospective review contains errors and misstatements. In relying on studies purporting to demonstrate that HHS's regulations have not been edited or are otherwise flawed, the SUNSET final rule appears to incorrectly assume that the age of a regulation and the fact that it has not been edited for some period of time suggests that the regulation should be and has not been reviewed under section 610 or pursuant to any of the Department's numerous regulatory review efforts. *See* 86 FR 5710 (concluding the AI data ''suggested that large numbers of Department regulations would benefit from retrospective review''); *id.* at 5738 (''These findings suggest regulations are not being updated to reflect evolving economic conditions and technology, even though this is a goal of the RFA.''). As the Withdrawal NPRM explained, numerous agency efforts involving the review of regulations do not result in a change in the regulation. Moreover, section 610(a) explicitly contemplates unchanged regulations, stating that ''[t]he purpose of the review shall be to determine *whether such rules should be continued without change,* or should be amended or rescinded'' (emphasis added). Also, as noted in the Withdrawal NPRM, the broken links and other typographical errors identified through the AI review were successfully addressed as part of the HHS ''Regulatory Clean-Up Initiative,'' a final rule published on November 16, 2020, 85 FR 72899, that made miscellaneous corrections, including correcting references to other regulations, misspellings and other typographical errors in regulations issued by FDA, CMS, the Office of the Inspector General, and the ACF. In addition, FDA issued a final rule to amend regulations on medical device premarket submissions to remove requirements for paper and multiple copies and replace them with requirements for a single submission in electronic format.[29]

The assumption that unedited rules have not been reviewed is incorrect for the additional reason that many rules setting industry standards have remained untouched for years, not from neglect, but because they work as intended. The OMB memo offering guidance to heads of executive departments and agencies on implementation of E.O. 13563 explicitly states that, in conducting retrospective analysis of existing rules: ''Agency plans should not, of course, call into question the value of longstanding agency rules simply because they are longstanding. Many important rules have been in place for some time.'' [30] The Withdrawal NPRM points to numerous longstanding regulations that bring efficiencies to industry by clarifying applicable statutory obligations, such as food regulations involving nutrition, food labeling, standards of identity, food ingredients, and color additives. Furthermore, the Withdrawal NPRM cited comments to the SUNSET proposed rule confirming that these longstanding regulations create important efficiencies for regulated industry. By contrast, the commenter offered no support for its assumption that the age of a rule and the fact that it has not been edited must mean that it is out of date with respect to its technological and informational requirements. Moreover, even if certain of such requirements could be updated to reflect technological advances, the commenter does not explain why that would necessarily mean that the rule has or will have a SEISNOSE and should be reviewed under section 610. To have a SEISNOSE, a rule must have a *significant* economic impact on a *substantial* number of small entities, and the Department considers a rule to have a SEISNOSE if it has at least a three percent impact on revenue on at least five percent of small entities. *See, e.g.,* 86 FR 5749. Again, based on the SUNSET final rule's estimates, only 15% of the Department's regulations have a SEISNOSE, 86 FR 5737, which suggests that many, or potentially all, of the regulations the commenter claims have outdated technological requirements are not regulations with SEISNOSE subject to section 610 review.

The SUNSET final rule made similar errors with respect to other data it cited in its discussion of the Department's RFA compliance and record of retrospective review. Specifically, the SUNSET final rule cited a review of HHS's entries in the semiannual Unified Agenda over the last ten years, which identified three entries for final rulemakings resulting from section 610 reviews. *See* 86 FR 5737. Based on these data, the SUNSET final rule suggested that, during that ten-year time period, the Department conducted section 610 reviews of only 26 of its 370 rulemakings previously determined to have a SEISNOSE. *See id.* at 5737–38 (referring to ''lax compliance with periodic review requirements under the . . . [ ]RFA[ ]''). However, in drawing this conclusion, the SUNSET final rule appears to improperly assume that the three final rulemakings resulting in section 610 reviews (which it estimated

[29] ''Medical Device Submissions: Amending Premarket Regulations That Require Multiple Copies and Specify that Paper Copies To Be Required in Electronic Format,'' 84 FR 68334 (Dec. 16, 2019).

[30] OMB Memorandum M–11–10, ''Executive Order 13563, 'Improving Regulation and Regulatory Review' '' (Feb. 2, 2011) (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2011/m11-10.pdf*).

amended CFR sections equivalent to approximately 26 rulemakings) represented the only section 610 reviews conducted by the Department during this ten-year time period. *See id.* at 5737 n.213. In so concluding, the SUNSET final rule again relied on the flawed assumption that a section 610 review must result in the amendment of a rule or a new rule, and thus excluded all other section 610 reviews indicated in the Unified Agenda during that time period. As a result of that exclusion, the Department incorrectly assessed the scope of rulemakings the Department reviewed under section 610 during the last ten years.

The SUNSET final rule's discussion of the Department's RFA compliance also contains misstatements and other errors. The SUNSET final rule cited three ''examples of regulations that [commenters] and/or Congress have requested the Department to review, but that the commenters claimed were not reviewed.'' 86 FR 5696. Although the SUNSET final rule did not take a firm position on the status of these examples, the implication that these matters are inactive is factually incorrect. For example, the Fall 2021 Unified Agenda includes planned action to harmonize the differences between the Basic HHS Policy for the Protection of Human Research Subjects (45 CFR part 46, subpart A) and the FDA regulations for the protection of human subjects (21 CFR parts 50 and 56).[31] The Fall 2021 Unified Agenda also includes several planned regulatory actions by FDA's Center for Veterinary Medicine (CVM) to revise [32] and in certain instances withdraw several regulations based, in part, on the comments received in dockets issued in 2017 seeking comments and information from interested parties to help FDA identify existing regulations and related paperwork requirements that could be modified, repealed, or replaced, consistent with the law, to achieve meaningful burden reduction while allowing us to achieve our public health mission and fulfill statutory obligations. In addition, CMS revised the Medicare Beneficiary Program Manual (MBPM), in accordance with the national settlement agreement in the *Jimmo* v. *Sebelius* litigation.[33] Moreover, the SUNSET final rule did not assert that these regulations have or will have a SEISNOSE, or even that the commenters or Congress asserted that they do, and thus, the rule failed to demonstrate how, if at all, these examples implicate the Department's retrospective review efforts under section 610.

The remaining data cited in the SUNSET final rule's discussion of the Department's RFA compliance lacks relevance to that discussion. For example, the SUNSET final rule asserted that good governance stewardship actions were deprioritized and relegated to ''rainy day'' activities the Department operating divisions would get to when they could, citing a review conducted in 2019 that entailed an AI data analysis of HHS regulations. 86 FR 5697. As already discussed in this response, the AI review results do not indicate whether any of the rules it identified as not updated or otherwise flawed have or will have a SEISNOSE, and thus the rule fails to demonstrate how, if at all, this review implicates the Department's activities under section 610. Furthermore, as noted above, the broken links and other typographical errors identified through the AI review process were successfully addressed as part of the HHS ''Regulatory Clean-Up Initiative.'' As another example, the SUNSET final rule also cited ''government assessments that the Department's efforts to comply with 5 U.S.C. 610 have at times been lacking,'' 86 FR 5696; however, these sources at most indicate at times in the past the Department could have reviewed more rules under section 610, and therefore, these sources do not demonstrate that the Department does not currently comply.[34]

The SUNSET final rule's discussion of ''[m]achine-learning tools . . . [that] demonstrate the complexity of Department rules'' similarly lacks relevance to the Department's compliance with section 610. The rule cites data showing that the Department's regulations in 2019, ''based on the amount of information contained in text,'' were ''more complex than a typical Shakespeare play,'' and notes that ''reducing complexity is another goal of the RFA.'' 86 FR 5738. However, as with much of the data already discussed, these data do not purport to relate specifically to rules that have or will have a SEISNOSE, and thus, again do not necessarily implicate the Department's efforts under section 610. Moreover, even if these data were specific to regulations with a SEISNOSE, the Department does not agree with the SUNSET final rule that these data demonstrate that its regulations are overly complicated. As the SUNSET final rule itself acknowledges, complexity in the Department's regulations ''is not . . . surprising given that the regulations often involve science, engineering, or highly technical material.'' 86 FR 5738.

Moreover, the Department disagrees that ''the amount of information in text'' is a reliable proxy for complexity that is unnecessary or undesirable given that, in the Department's experience, providing more information in a regulation can often enhance clarity. For example, in FDA's experience, often in response to a proposed rule, commenters will request that the agency provide examples in the codified text which can lengthen the text but clarify the requirements. For example, a good manufacturing practices rule may require that ''qualified personnel handle x.'' So, to better explain what constitutes ''qualified personnel,'' the codified text may include examples such as education, years of work experience, etc. The examples are general and not prescriptive so that the regulated entity can exercise flexibility in determining what is applicable to their industry and their unique

[31] *See* Protection of Human Subjects and Institutional Review Boards, RIN 0910–A107 (Fall 2021) (available at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0910-AI07*).

[32] *See, e.g.,* Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals, RIN 0910–AI24 (Fall 2021) (available at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0910-AI24*); Phased Review of New Animal Drug Applications, Electronic Submission, and Master Files, RIN 0910–A135 (Fall 2021) (available at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0910-AI35*); Revision of Requirements for the Establishment and Maintenance of Records Related to Medicated Animal Feed and Veterinary Feed Directive Drugs Office of Information and Regulatory Affairs, RIN: 0190–AI67 (Fall 2021) (available at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0910-AI67*).

[33] *See Medicare Beneficiary Policy Manual,* Chapters 7 (Home Health), 8 (Skilled Nursing Facilities) and 15 (Outpatient Therapy) (available at *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/internet-Only-Manuals-IOMs-Items/CMS012673*). We note that the SUNSET final rule referred to a comment stating that *regulations* covering access to skilled therapy services had not been updated to reflect the national settlement in *Jimmo* v. *Sebelius. See* 86 FR 5696. However, the settlement agreement requires HHS to amend the *Medicare Benefit Policy Manual* to clarify the coverage standards, not to amend Medicare regulations. *See* ''IX. Injunctive Provisions'' in Settlement Agreement, at 8–14 (available at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/Downloads/Jimmo-Settlement-Agreement.pdf*).

[34] *See, e.g.,* Curtis W. Copeland, Cong. Rsch. Serv., RL32801, Reexamining Rules: Section 610 of the Regulatory Flexibility Act 8 (2008) (''[I]t would be reasonable to expect that, since [certain departments] indicated that they intended to issue a large number of rules each year with a significant effect on small entities, those same agencies would need to reexamine a large number of rules each year under Section 610.''); U.S. Accountability Off., GAO/GGD–94–105, Regulatory Flexibility Act: Status of Agencies' Compliance (1994) (citing an SBA report from 1983 suggesting potential for improving the Department's review plan).

manufacturing processes. Thus, while the codified text may be longer, it is not inherently more complex or burdensome.

3. Policy Considerations Related to Retrospective Review

Comment: Some commenters opposed finalizing the Withdrawal NPRM because, in their view, there is a need for HHS to conduct more retrospective review. Several commenters asserted that HHS regulations are outdated. One comment stated that greater retrospective review is needed because ''the costs of regulations frequently exceed what was projected at the time of promulgation,'' citing information from the preamble to the SUNSET final rule. Another comment stated that there is an ''overall lack of an evidentiary basis for many of [HHS's] regulations'' and cited a working paper [35] criticizing the Department's retrospective review and HHS regulations' identification of a problem that would be solved by the regulation. Several comments stated that widespread retrospective review is appropriate because, if the public must comply with HHS regulations, HHS should have to review them. Approximately ten identical anonymous comments stated that the Withdrawal NPRM should not be finalized because withdrawal or repeal of the SUNSET final rule would ensure Americans continue to be subject to costly, burdensome regulations and, before adding additional burdens on the American people, HHS should determine if its existing regulations are helping or harming them.

Response: HHS does not agree that the SUNSET final rule should be retained for any of the reasons cited by commenters. First, even assuming that HHS would benefit from more retrospective review, none of these comments explain why the onerous procedures and compressed timeframes of the SUNSET final rule are necessary or desirable to achieve that goal. Upon review, HHS believes that the procedures set forth in the SUNSET final rule would be a poor method for achieving the goal of improved regulations through retrospective review because the pressure created by the SUNSET final rule process would undermine the quality of the Department's reviews. The SUNSET final rule's focus on small-entity impacts also does not seem directly responsive to these calls for large-scale reconsideration of HHS regulations.

Second, HHS does not agree that the commenters have demonstrated a need for widespread retrospective review. For example, HHS disagrees with the general proposition that its regulations are outdated. The only evidence offered to support these assertions is the evidence presented in the SUNSET final rule, which is discussed in the previous comment response. For example, commenters cited the fact that many HHS regulations issued prior to 1990 have not been edited. But that fact does not show that edits are *needed,* and it certainly does not show that the underlying policies of those regulations are flawed or that the regulations have impacts that should be reassessed. Similarly, the fact that broken links or typographical errors may exist in HHS regulations does not stand for a broader proposition that the underlying policies or impact analyses in the regulations are outdated. Nor is automatic expiration of a regulation an appropriate response to broken links or typographical errors in that regulation. Overall, HHS rejects the conclusion that our regulations are generally ''outdated'' because, as discussed throughout this preamble, we review regulations under many processes, regularly engage with stakeholders regarding the effects of our regulations, and craft regulations to be flexible and to account for technological advancement and changed circumstances over time.

HHS has also reconsidered the evidence presented in the SUNSET final rule concerning cost-benefit projections at the time of promulgation, and we now determine that it is of limited, if any, relevance to HHS. In particular, in order to reach the conclusion that limitations in ''government projections'' counsel in favor of widespread retrospective regulatory review specifically for HHS, the SUNSET final rule relied on a 2005 OMB report that compared pre- and post-regulation cost-benefit calculations for 47 regulations at five agencies. However, the report did not include HHS or any HHS regulations.[36] Moreover, the 2005 OMB report looked at rules dating back from 1975 to 1996.[37] The SUNSET final rule also relied upon another study that evaluated OMB's 2005 report to Congress on the benefits and costs of Federal regulations and a 2005 analysis sponsored by the SBA, but this study did not evaluate any HHS regulations.[38] In addition, the SUNSET final rule presented, as evidence of inaccuracies in regulatory cost-benefit analysis, a publication that looked at eight regulations and included only one HHS regulation, an FDA rule related to food safety.[39] One single FDA regulation is not a sufficiently representative sample from which any generalizable conclusions may be drawn regarding HHS regulations. Finally, another study relied upon in the SUNSET final rule pertained to only one regulation promulgated by the Environmental Protection Agency (EPA) to address arsenic in drinking water.[40] It is not possible to draw any conclusions about HHS regulations from a study looking at just one EPA regulation.

The Department also strongly disagrees that there is a lack of an evidentiary basis for many of its regulations. At the most basic level, the Department relies on evidence to guide it in its public health mission, including its rulemaking efforts. The economic analyses for rulemakings include qualitative and quantitative consideration of the impacts. Evidence, data, and analyses are considered to the extent available and are reflected in the RIAs for the regulations. The analyses and supporting data are included and made publicly available when the rulemaking is published. The same principles apply to the entire rulemaking.

We are also not persuaded that the working paper cited by the commenter supports the proposition that HHS's regulations lack an evidentiary basis. Critically, the paper limited its assessment to preliminary regulatory impact analyses accompanying proposed economically significant regulations. This approach discounts any additional evidence gathered between a notice of proposed rulemaking and publication of a final rule, including evidence from public

[35] Ellig, Jerry, ''Evaluating the Quality and Use of Regulatory Impact Analysis: The Mercatus Center's Regulatory Report Card 2008–2013'' Mercatus Center at George Mason University (July 2016) (available at *https://www.mercatus.org/publications/regulation/evaluating-quality-and-use-regulatory-impact-analysis*).

[36] OMB, Validating Regulatory Analysis: 2005 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities (2005), at 42 (available at *https://perma.cc/R8LX-BQMJ*) (comparing pre- and post-regulation cost-benefit data for regulations promulgated by the Occupational Safety and Health Administration, the National Highway Traffic Safety Administration, the Environmental Protection Agency, the Department of Energy, and the Nuclear Regulatory Commission).

[37] *Id.*

[38] *See* 86 FR5697 (citing Winston Harrington, Grading Estimates of the Benefits and Costs of Federal Regulation, Res. for the Future, Discussion Paper 06–39 (2006)).

[39] *See* 86 FR 5698 (citing Richard Morgenstern, Retrospective Analysis of U.S. Federal Environmental Regulation, 9 J. of Benefit Cost Anal., no. 2., 285–304 (2018)).

[40] *See* 86 FR 5698 (citing Cynthia Morgan & Nathalie B. Simon, National primary drinking water regulation for arsenic: A retrospective assessment of costs, 5 J. Benefit Cost Anal. no. 2 (2014)).

comment incorporated into the final regulatory impact analysis. Thus, the commenter likely errs when transferring the findings of the report to finalized regulations, since HHS is more likely to publish final rules of actions that are justified. As an additional concern, the underlying report adopts several assessment criteria that do not speak to the quality of evidence presented in the preliminary regulatory impact analyses. For example, the paper awards points based on writing style, including whether the RIA is ''written in plain English (light on technical jargon and acronyms, well organized, grammatically correct, direct language used),'' and on how well a non-specialist reader would understand the analysis, results, and conclusion. Although these factors may represent desirable practices, they do not relate to the evidentiary basis of a regulation. The commenter highlights the paper's findings related to retrospective review; however, this score relates to whether a preliminary regulatory impact analysis discusses whether ''the proposed rule establish[es] measures and goals that can be used to track the regulation's results in the future'' and whether it ''indicate[s] the data it will use to assess the regulation's performance in the future and establish[es] provisions for doing so?'' [41] Similarly, although these may represent desirable practices, they do not speak to the evidence contained in regulatory impact analysis of HHS regulations. Finally, we note that the paper covers proposed rules published between 2008 and 2013. It is quite likely that a more recent assessment would yield higher scores for HHS as regards some of the scoring criteria. For example, the paper assigned points based on accessibility, including whether an agency publishes proposed rules and RIAs on its website. FDA now maintains a website containing Economic Impact Analyses of FDA regulations, which contains links to at least 170 regulatory impact analyses the agency has developed since 2012.[42] Other HHS agencies currently routinely publish preliminary RIAs in the same document as notices of proposed rulemaking in the **Federal Register**, which is also available online.[43] Thus, we anticipate that a more recent assessment of the availability of RIAs online would yield higher scores in this category. The report also assigned points based on the verifiability of the models and assumptions used in the analysis, including whether the RIAs include citations to sources that justify the models or assumptions. Since the time of the paper, HHS has updated its approach to valuing reductions in mortality risks in benefit-cost analysis by commissioning a criteria-driven review of the empirical literature on the value per statistical life (VSL),[44] and has published subsequent documentation of the Department's approach to updating the VSL to account for income growth and inflation.[45] HHS also commissioned research on the approaches used to value changes in time use and research on estimating impacts related to medical costs in RIAs, publishing conceptual frameworks and best practices on each of these topics.[46] [47] HHS also published Guidelines for Regulatory Impact Analysis in 2016, which includes best practices for conducting prospective and retrospective analysis.[48] Since HHS RIAs routinely reference these documents, as well as the models and assumptions contained in these documents, we anticipate that a more recent assessment of the verifiability of the models and assumptions used in RIAs would also yield higher scores in this category.

The Department also does not agree that the fact that regulated entities must comply with HHS regulations is a reason to retain the SUNSET final rule. The commenters appear to suggest that widespread review of regulations is needed as a sort of *quid pro quo* for regulated entities to comply with those regulations. But to the extent that these comments are purporting to protect the interests of regulated entities, HHS does not agree that the SUNSET final rule protects those interests. We have now determined, as discussed in Section VI, that the quantified costs of the rule far outstrip the quantified benefits, and the expiration provision threatens the basic regulatory frameworks on which regulated entities rely. Furthermore, the Department has finite resources, and we seriously doubt that deploying those resources for roving review under the SUNSET final rule, rather than other initiatives important to regulated entities, is in these entities' interest. We note that almost no regulated entities submitted comments in support of the SUNSET final rule.

Although some commenters stated that HHS regulations generally are burdensome, these commenters did not identify any specific regulations or offer support for their assertions. In any event, we disagree with the assertion. HHS regulations enhance public health, safety, and welfare and provide significant cost savings by, for example: Facilitating the implementation of programs to benefit millions of stakeholders, including underserved populations; preventing serious harm to the public; providing clarity and consistency across the public health spectrum to streamline compliance with statutory requirements; creating a level playing field for businesses; and boosting consumer confidence.

In general, HHS agrees that there is value in retrospective review, but it must weigh that value against the value of other competing regulatory objectives that may be of equal or greater importance. Weighing those considerations, the Department has determined that the SUNSET final rule is not an appropriate way to achieve the goals of retrospective review.

Comment: Some commenters stated that the SUNSET final rule should be retained because it provides benefits to the public. These commenters stated, for example, that the rule: allows HHS to consider new developments in science and medicine, better respect legal rights of conscience and religion, and perform more accurate cost-benefit analyses; gives ''recurring departmental attention to the impact of HHS regulations on small and independent businesses;'' increases accountability to real-world impacts; and makes sure that regulations ''do not unnecessarily burden the American public through sheer inertia.'' Some commenters stated that the rule would ''eliminate red tape,'' lead to ''faster economic growth'' and ''significant economic benefits,'' and ''save lives.'' Certain policy advocacy groups suggested that the

[41] *https://www.mercatus.org/system/files/Ellig-Reg-Report-Card-Eval-v1.pdf.* Quotes are located on pages 14 and 94.

[42] *https://www.fda.gov/about-fda/reports/economic-impact-analyses-fda-regulations.*

[43] *https://www.federalregister.gov/.*

[44] Robinson, L.A., & Hammitt, J.K., ''Valuing reductions in fatal illness risks: Implications of recent research,'' 25(8) Health Economics 1039–52 (2016).

[45] Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, ''Appendix D: Updating Value per Statistical Life (VSL) Estimates for Inflation and Changes in Real Income'' (June 2021) (available at *https://aspe.hhs.gov/reports/updating-vsl-estimates*).

[46] Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, ''Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices'' (June 2017) (available at *https://aspe.hhs.gov/reports/valuing-time-us-department-health-human-services-regulatory-impact-analyses-conceptual-framework*).

[47] Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, ''Estimating Medical Costs for Regulatory Benefit-Cost Analysis: Conceptual Framework and Best Practices'' (June 2017) (available at *https://aspe.hhs.gov/reports/estimating-medical-costs-regulatory-benefit-cost-analysis-conceptual-framework-best-practices*).

[48] *https://aspe.hhs.gov/reports/guidelines-regulatory-impact-analysis.*

SUNSET final rule benefits individuals because it provides a mechanism for every American to have their voice heard.

Response: HHS does not agree that the SUNSET final rule should be retained based on these purported benefits. First, HHS considers matters of conscience and religion as relevant and appropriate as a matter of course, and has an Office for Civil Rights to address such issues as they arise. We do not see how conducting retrospective reviews under SUNSET final rule is necessary or even helpful to better respect legal rights of conscience and religion.

Second, for the purported benefits of eliminating red tape, faster economic growth, significant cost savings and other types of broad economic benefits, and saved lives, HHS considers these speculative and not obviously attributable to the SUNSET final rule. The commenters make a number of leaps in their analysis to assert these benefits. For example, they assume that (1) regulations would be amended or rescinded following review under the SUNSET final rule; (2) these amendments and rescissions would have overall economic and/or life-saving benefits; and (3) no other Department processes would result in these same amendments or rescissions. We disagree both with these assumptions and the chain of reasoning leading to the conclusion that the SUNSET final rule would necessarily have these benefits. As discussed in more detail in our preliminary and final regulatory impact analyses, *see* 86 FR 59922 and Section VI, the benefit attributable to the SUNSET final rule is the benefit of any information learned from completing the assessments and reviews. We note that the SUNSET final rule's regulatory impact analysis, similarly, contained very little discussion of benefits and did not quantify any benefits of the rule. 86 FR 5749.

Third, for the purported benefit of helping individuals—for example, by making it easier for them to participate in the process of regulatory review and have their voices heard—we do not agree that the SUNSET final rule would provide that benefit. Our view, which is informed by many comments on this subject as discussed in detail above, is that the SUNSET final rule generally harms individuals. The rule poses harm through, among other things, Department and stakeholder diversion of resources away from other important initiatives, uncertainty, and loss of regulatory programs through expiration. And, with respect to regulations that automatically expire, there will have been no notice and comment process for the expiration of those specific regulations. Even considering in a vacuum the purported benefit of increased stakeholder participation, our regulatory impact analysis recognizes that the approach of the SUNSET final rule creates greater costs for stakeholders. Furthermore, the sheer volume of rulemakings under assessment and review risks overwhelming individual commenters and preventing their participation.

Fourth, for the remaining benefits asserted by commenters, such as incorporating new scientific information and updating impact analyses, HHS recognizes that these could be potential benefits of an appropriately targeted and manageable retrospective review scheme. Thus, the RIA notes that the final withdrawal rule will result in forgone information as a result of not performing the SUNSET final rule's assessments and reviews. See Section VI below. However, we disagree that the SUNSET final rule would have generated significant benefits in these areas that outweigh the costs. Among other things, the pace and scope of assessments and reviews, combined with the threat of expiration, would likely curtail the careful and thorough deliberation needed to produce these types of benefits and could reduce the quality of regulatory reviews. Moreover, because HHS already undertakes regulatory review under the RFA and otherwise, benefits in these areas, if any, would only be incremental over the ones already produced.

In light of the limited nature of the potential benefits, and balancing those potential benefits against the significant harms of the rule (which include, for example, resource diversion from other key programs, uncertainty, and the potential loss of regulations through the expiration mechanism), the Department has determined that the SUNSET final rule should be withdrawn. The Department recognizes that it previously concluded, in the SUNSET final rule, that the value of the rule's retrospective review program outweighed any harms associated with the rule. However, the Department has since identified multiple flaws in its prior analysis that have led it to reconsider and reverse this conclusion. Among other things, finalization of the SUNSET final rule was premised on a miscalculation of the resources needed to comply with the rule. Because of that error, the analysis in the SUNSET final rule failed to recognize the effects the rule would have on other key programs and initiatives and the likelihood of expiration. The Department also previously miscalculated the substantial burdens the rule would place on stakeholders. Overall, HHS now recognizes that any informational benefits of the rule are greatly outweighed by its harms, and that the rule is irreconcilable with the Department's public health mission. Thus, HHS is withdrawing this rule.

Comment: Several commenters referred to various E.O.s issued over the years related to retrospective review. One of these commenters stated that HHS, in withdrawing the SUNSET final rule, must consider compliance with the E.O.s identified in the preamble to that rule.

Response: First, we note that many of the E.O.s referred to in these comments or identified in the SUNSET final rule have been revoked, including E.O. 12044, E.O. 12291, E.O. 12498, E.O. 13771, and E.O. 13924. Thus, there is no requirement or expectation of ''compliance'' with these E.O.s.

Second, HHS has considered these E.O.s and does not agree that they provide support for retaining the SUNSET final rule. Most of these E.O.s direct agencies to develop plans for the periodic review of existing significant regulations to determine whether any such regulations should be modified or repealed so as to make the agency's regulatory program more effective or less burdensome. One E.O. focuses on public engagement and OMB reporting with respect to the same scope of retrospective review. HHS already took various actions in response to these E.O.s, including publishing a plan and soliciting comments.[49] Moreover, the E.O.s have a different purpose and focus than the SUNSET final rule, which purports to focus on minimizing the impacts of regulations on small entities. *See, e.g.,* 86 FR 5751 (defining ''Review'' as ''a process . . . the purpose of which shall be to determine whether Sections [of the CFR] . . . should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the Sections upon a substantial number of small entities.'').

Thus, we disagree that the E.O.s constitute a reason to retain the SUNSET final rule.

Comment: In the Withdrawal NPRM, the Department invited comment on the experience of states and foreign governments implementing laws requiring ''sunset reviews.'' A few

[49] More information about HHS's actions, including HHS's plan, progress on the plan, and public engagement, is available here: *https://www.hhs.gov/open/retrospective-review/index.html.*

commenters provided an assessment of the positive experience some states and foreign governments have had with implementing their own sunset laws. These commenters opposed the Withdrawal NPRM and pointed to the experience of North Carolina, Missouri, and Texas, whose state legislatures have each established a sunset law and a process for the review of state regulations that feature a sunset mechanism. One commenter stated that North Carolina's process, under which all agency rules are slated for automatic repeal in 10 years unless reviewed, resulted in the repeal of about one state rule out of every ten reviewed. A second comment described the cost savings attributed to the Texas Sunset Advisory Commission. A third comment noted that Missouri connects a sunset provision to a five-year periodic review requirement in a manner very similar to the SUNSET final rule. In contrast, a comment submitted by the North Carolina attorney general, together with 19 other State attorneys general, expressed support for withdrawing the SUNSET final rule, noting that the SUNSET final rule posed a direct threat to their states' health care systems and the health and safety of their residents.

Response: We appreciate that the commenters provided information in response to our request. The SUNSET final rule cited the experience of states and foreign governments as a justification for the rule, noting that the mechanism of retrospective review being implemented by the SUNSET final rule was informed by the experience of states and other jurisdictions that allow for the automatic expiration of regulations subject to review. *See* 86 FR 5700 (''experience in the States suggests that sunset provisions can be an important tool to ensure reviews take place''). However, the SUNSET final rule did not account for myriad ways in which those state and international frameworks cited are considerably different from each other, nor did it account for their considerable differences with the SUNSET final rule.[50]

The Department has given further consideration to differences between state sunset laws, such as those of North Carolina, Missouri, and Texas, and the HHS SUNSET final rule. These differences include the legislative origins, implementation, operations, governing administrative law requirements, and the scope, breadth and volume of regulations. More specifically, the states' experience with their sunset laws is of limited relevance to HHS because of the vastly greater scope of national regulations that impact tribal, state and local governments, and international stakeholders; the corresponding greater extent of the economic and public health impacts of the regulations; the amount of Department and stakeholder resources consumed by that larger scope; and differences in governing law, including the APA. We now conclude that the differences are so stark the states' experiences have limited relevance for the Department and do not support retention of the SUNSET final rule.

For example, with respect to North Carolina, the initial assessment outlined in its sunset law does not entail the multi-factor review and assessment required by the SUNSET final rule to evaluate whether a regulation has significant economic impact on a substantial number of small entities. Rather, the North Carolina law enacted by the General Assembly entails periodic review and expiration based on whether the rule is ''necessary with substantive public interest,'' ''necessary without substantive public interest,'' or ''unnecessary.'' [51] Given that this framework is starkly different from the framework in the SUNSET final rule, and given the differences in the breadth and complexity of the underlying HHS regulations as compared to state regulations, the state experience implementing its own law does not shed much light on how implementation of the SUNSET final rule would impact the Department and its stakeholders. For example, the state experience does not inform the extent of Federal resources which would be diverted from addressing public health goals to undertake the scale and pace of reviews required by the SUNSET final rule, and potentially defend against challenges to each of those actions.

The commenter also contended that continuing to create regulations without revisiting them is irresponsible because, with decades passing by without review, it is reasonable and likely to expect some portion, possibly sizeable, of HHS rules to be obsolete. The commenter asserted that North Carolina's experience with regulatory review supports this assertion. We disagree. The commenter's characterization of HHS regulations was conclusory and not grounded in any actual evaluation of current HHS regulations. In particular, it failed to take into account the regulatory reviews that have taken place and it assumes without evidence that the passage of time alone makes regulations obsolete. However, as discussed in greater detail elsewhere in this section, many regulations remain unchanged because they work as intended. For example, regulations that establish product standards or public service programs may not need periodic updates and their automatic expiration would cause public harm.

Under the Texas Sunset Law, the Texas Legislature sets an expiration date in an agency's authorizing statute and a review cycle to determine whether the Agency should be automatically abolished on this date or continued. As part of a review cycle, the Agency must submit a self-evaluation report, the public is invited to submit comments, and then the Texas Sunset Advisory Commission, a legislative advisory body, reviews the information and makes a recommendation whether to abolish or continue the agency. If the recommendation is for the Agency to continue, the Legislature must pass a bill to continue the Agency. As explained by Sunset Advisory Commission, in the self-evaluation report agencies describe their mission, functions, and programs, provide operational and performance data, and identify potential issues and opportunities for change through the Sunset process.[52] Thus, the Texas agencies are not required to provide an assessment or review of their regulations. Because this scheme differs so vastly from the SUNSET final rule, Texas is not an appropriate model or comparator for the SUNSET final rule.

With respect to Missouri, we already explained that the quantity of regulations subject to review in that state represents a small fraction of HHS regulations, and their substantive scope is far more limited. *See* Section V.B.3. We also note that it was the Missouri General Assembly that enacted

[50] *See, e.g.,* N.D. Cent. Code 28–32–18.1 (permitting amendment or repeal of rules without complying with the other requirements of North Dakota's Administrative Agencies Practice Act relating to adoption of rules); 75 OK Stat section 75–307.1 (2014) (directing the Oklahoma House and Senate to conduct rule review); Tenn. Code Ann. section 4–56–102 (limiting review to procurement rules). One state cited had repealed its sunset provision. Rhode Island created an Office of Regulatory Reform to review proposed and existing rules and regulations, but the statutory provision requiring all agencies to conduct periodic review of rules was repealed. *See* R.I. Gen. Laws Ann. tit. 42, ch. 64.13; *see also* 2016 R.I. Pub. Laws 206 (June 29, 2016) (repealing section 42–35–3.4 of Rhode Island's Administrative Procedures Act).

[51] N.C. Gen. Stat section 150B–21.3A, ''Periodic Review and Expiration of Existing Rules.''

[52] Sunset Advisory Commission, ''Sunset in Texas 2022–2023,'' 88th Legislature (Sept. 2021) (available at *https://www.sunset.texas.gov/public/uploads/files/reports/Sunset%20in%20Texas%202022-23.pdf*).

legislation directing State agencies to conduct periodic review of rules and rendering rules void if the agency fails to timely file a report on their review.[53] Thus, the Missouri example does not show that the relevant agencies themselves view this type of sunset framework as advantageous or beneficial to their missions or that they would choose of their own volition to allocate their resources in this manner. In contrast, Congress has not directed the Department or any other agency, under the RFA or any other statute, to adopt a sunset mechanism for their regulations.

One commenter also cited an Organisation for Economic Cooperation and Development (OECD) [54] report on the ex post review of laws and regulations and reiterated that the SUNSET final rule acknowledges that some countries have sunset provisions. However, no commenters provided substantive information about the experience of foreign governments adopting such laws. Thus, the Department concludes that the resource allocations of foreign governments, and approaches adopted in countries not bound by the U.S. APA, are not instructive for one department of the U.S. Government to adopt unilaterally.

The comment submitted by the North Carolina attorney general and 19 other State attorneys general in favor of withdrawing the SUNSET final rule, reflects that these attorneys general do not share the views of the commenters discussed above. Despite a comment indicating the lack of reports of accidental expirations of regulations encountered, for example, in North Carolina's regulatory reform process, the attorneys general stated that the considerably different process embodied by the SUNSET final rule would threatens their states' health care systems and the health and safety of their residents. We agree with this comment and find it notable that an attorney general from a state with sunset provisions does not find their experience with the sunset law to be beneficial enough to encourage HHS to adopt its own. In sum, as discussed above, we conclude that the states' experience with sunset laws do not support retention of the SUNSET final rule.

[53] Missouri Rev. Stat., Title XXXVI section 536.175.5.

[54] The OECD is forum where 37 democratic governments with market-based economies collaborate to develop policy standards to promote sustainable economic growth. *See https://www.state.gov/the-organization-for-economic-co-operation-and-development-oecd/.*

D. Other Legal Comments

In issuing the Withdrawal NPRM, the Department explained that questions had been raised in comments on the SUNSET proposed rule as to whether the SUNSET final rule is consistent with the procedural and substantive requirements of the APA. 86 FR 59921. Commenters on the Withdrawal NPRM discussed these and other legal issues. Below, we respond to the comments on (1) the legal issues with the SUNSET final rule, (2) legal arguments regarding this withdrawal proceeding, (3) proposed modifications to the SUNSET final rule, and (4) other legal issues raised in comments.

1. Legal Objections to the SUNSET Final Rule

Comment: Multiple comments stated that the expiration portion of the SUNSET final rule violates the APA because, to amend or repeal a rule under the APA, an agency must conduct a notice-and-comment process specific to the individual rule being amended or repealed. Various comments identified regulations subject to the expiration provision whose elimination would likely cause harm to the public, and stated that HHS was obligated to consider the seriousness of these potential harms. Other comments stated that the expiration provision was unlawful for other reasons, such as that it lacked or was contrary to statutory authority.

One commenter disagreed, arguing that the expiration provision is consistent with the APA because HHS followed the APA's rulemaking procedure in adopting the SUNSET rule and because ''the Sunset Rule merely encoded what the RFA already contemplates.'' Another commenter stated that HHS must ''specifically address the inconsistency between its current view that the SUNSET Rule stands on a legally questionable footing, and its prior conclusion that it was legally sound under the RFA.''

Response: The Department agrees with commenters who raised questions about lawfulness of the expiration provision. Specifically, we have serious concerns that the SUNSET final rule's automatic expiration provision, as constructed, was not adequately justified under the APA. Similarly, we also question whether the SUNSET proposed rule was sufficiently detailed to provide adequate notice and an opportunity to comment on the potential expiration of each and every regulation covered under the SUNSET final rule.

''The APA's arbitrary-and-capricious standard requires that agency action be reasonable and reasonably explained.'' *FCC* v. *Prometheus Radio Project,* 141 S. Ct. 1150, 1158 (2021). An ''agency must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.' '' *State Farm,* 463 U.S. at 43 (quoting *Burlington Truck Lines, Inc.* v. *United States,* 371 U.S. 156, 168 (1962)). That explanation must show that ''the decision was based on a consideration of the relevant factors.'' *Id.* If the agency has ''entirely failed to consider an important aspect of the problem,'' the rule is ''normally . . . arbitrary and capricious.'' *Id.* These principles apply in full force to agency decisions to amend or repeal regulations. *See generally id.* In particular, when an agency changes course, including by amending a regulation, ''a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.'' *FCC* v. *Fox TV Stations, Inc.,* 556 U.S. 502, 515–16 (2009).

As discussed, the SUNSET final rule would have amended thousands of regulations to schedule their expiration if the Department failed to conduct assessments and reviews on a certain timetable. In addressing this subject, the Department did not provide any particularized consideration of the regulations subject to expiration. It did not consider the specific ''facts and circumstances that underlay'' these regulations, such as the statutory directives and public health problems that these regulations address and that would be left unaddressed upon expiration.[55] It also did not consider the specific ''facts and circumstances that . . . were engendered'' by these regulations, such as any reliance interests that may have developed based on the regulations. The Department did not even *identify* these specific facts and circumstances for the covered regulations, let alone treat them as

[55] For example, the SUNSET final rule amended an FDA regulation requiring an investigational medical device to disclose that it is ''[l]imited . . . to investigational use.'' 21 CFR 812.5(a). This regulation responds to a legislative directive to establish an investigational device program, the public-health need to establish safeguards for investigational use, and the specific circumstance that investigational devices could be diverted for ordinary patient use. Merely by introducing the possibility of expiration of this regulation without any replacement, the SUNSET final rule undermines these legislative objectives, threatens basic public-health protections, and creates uncertainty in the marketplace about the status of this requirement. But these factors were not considered when this regulation was amended by the SUNSET final rule.

relevant factors and weigh them against any perceived advantages of the SUNSET final rule. In addition, the Department did not address the various statutory purposes that would be undermined by expiration. Congress empowered the Department to act through its grants of authority, but there is no evidence that the Department considered those legislative goals or considered the expiration amendments in light of those goals. The expiration amendments were promulgated on a scale that made it nearly impossible to generate this type of particularized analysis or explanation.

Instead, the Department offered the categorical rationale that ''the benefits of retrospective review, and the need to strongly incentivize it, are so great that the risk of a regulation inadvertently expiring is justified by the benefit of institutionalizing retrospective review in this manner.'' 86 FR 5723. One commenter asserted that this type of rationale, focusing solely on benefits and importance of retrospective review, meets the satisfactory explanation requirement in the APA. However, the Department now questions that assertion. We doubt that this one-sided explanation, which considers none of the facts, circumstances, or goals of the regulations subject to expiration, would enable a court to conclude that the expiration amendment was reasonable and reasonably explained. Ultimately, the Department failed to genuinely grapple with the potential harms of each amended regulation expiring, and the Department now acknowledges that those harms are unquestionably ''relevant factors.''

The Department recognizes that it previously stated that it was ''considering the important factors'' in the SUNSET final rule, but this bare assertion is belied by the fact that the rule did not elaborate on any factors other than the benefits of retrospective review. 86 FR 5716. The Department also stated that it had ''provide[d] the reasoned explanation that would be required if it were a change in policy,'' but, as previously noted, the Department did not provide any explanation addressing the relevant factors. *Id.* at 5702. In addition, in the final rule, HHS stated that it ''considered each individual Department regulation'' in connection with deciding whether to exempt the regulation from the scope of the SUNSET final rule. *Id.* at 5703. However, courts have found that ''[s]tating that a factor was considered . . . is not a substitute for considering it,'' *Getty* v. *Fed. Sav. & Loan Ins. Corp.,* 805 F.2d 1050, 1055 (D.C. Cir. 1986), and the record does not provide further evidence of Departmental consideration of the individual covered regulations. On the contrary, the SUNSET final rule contains a list of various regulations that commenters had proposed for exemption from the SUNSET final rule and then concludes, without explanation, that the regulations would not be exempt. 86 FR 5736. This bare conclusion appears to be directly at odds with the Department's obligations under the APA to consider the relevant factors and adequately explain its decision.[56]

The legal defects described above concerning the SUNSET final rule's amendments to regulations are the same, only magnified, in the circumstance that the SUNSET final rule results in the automatic expiration of a regulation. As reflected elsewhere in this preamble, the Department has determined that it is likely that at least some amended regulations would expire because of overburdened resources. Even if that were not immediately the case, this framework would allow a future administration with a deregulatory agenda to strategically repeal regulations through inaction. In the event of such expiration, the Department would be reversing course on a policy embodied in a regulation without any specific analysis of, or justification for—and without notice and an opportunity to comment on—the expiration, including the original motivating factors for issuing the regulation and potential relevant reliance interests. The Department likewise appears not to have examined whether expiration—without notice and comment—would be consistent with the HHS agency's decision not to impose a termination date when it promulgated the rule in question. But, as noted above, when an agency changes course, such as by repealing a regulation, ''a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.'' *Fox,* 556 U.S. at 515–16.

The failure to consider reliance interests, in particular, presents a substantial legal concern in light of the Supreme Court's admonition that ''[w]hen an agency changes course, . . . it must be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account.'' *Dep't of Homeland Sec.* v. *Regents of the Univ. of Cal.,* 140 S. Ct. 1891, 1913 (2020) (internal quotations omitted). The Court held that agencies in the midst of policy change are ''required to assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns.'' *Id.* at 377. The Department's regulations, which affect a significant sector of the American economy, undoubtedly could have engendered varying degrees of reliance, and the expiration of those regulations could undermine any such reliance interests. At the time that a particular regulation expires under the SUNSET final rule, however, the Department would not have considered any of those regulation-specific interests.

In the SUNSET final rule, HHS acknowledged the significant potential for there to be reliance interests in existing HHS regulations. For example, it stated that it had increased the length of time before the first expiration date from two years to five years in order to give ''the regulated community . . . five years to adjust to the changes made by this final rule, so any reliance interests are significantly reduced as compared to the proposed rule.'' 86 FR 5709. The Department has reconsidered this statement and has determined that this additional length of time is unlikely to significantly reduce reliance interests because the public would not know, likely for most of the five-year time period, whether a regulation would actually expire. In any event, the Department did not supply the particularized analysis regarding reliance interests contemplated by the Supreme Court, and the Department now doubts that this approach is lawful under the APA.[57]

[56] The Department also previously justified the SUNSET final rule by comparing it to an amendment to a specific rule to add an expiration date, or an amendment to a defined term that is more widely applicable to a set of regulations. However, those comparisons do not address the underlying concern that the expiration provision lacked adequate justification. Because of the differences in scope, scale, and effect, it is far more likely that HHS could provide appropriate notice, consider the relevant factors, and produce the record needed to support those more targeted amendments, in contrast to the global amendment created by the SUNSET final rule.

[57] The Department also continues to be concerned that the specific exemptions included in the SUNSET final rule were not the product of reasoned decision-making. The Department exempted certain FDA regulations, for example, because they ''simply create product identities'' and because, according to the Department, some subset of those regulations are being reviewed under other processes. 86 FR 5731. However, these regulations do not simply create product identities; instead, they describe the conditions under which certain products can be marketed. The stated reasoning does not appear to support the exemption decision or their scope. In addition, the existing review processes cited by the Department only apply to a subset of the exempted regulations, and some of those review processes are limited to narrow issues, such as whether a device should be exempt from premarket review. *See* 86 FR 5731 nn. 199, 200 (citing 21 U.S.C. 360(l), (m)

HHS also disagrees with the commenter who stated that ''the Sunset Rule merely encoded what the RFA already contemplates.'' As explained elsewhere in this preamble, the RFA neither explicitly nor implicitly provides authority for automatic expiration dates. With respect to the comment that HHS must specifically address the inconsistency between its current view that the SUNSET final rule stands on a legally questionable footing, and its prior conclusion that it was legally sound under the RFA, the Department now has concluded that the SUNSET final rule exceeded the requirements of the RFA and did so in a manner that likely violates the APA.

Comment: Multiple comments objected to the length of the comment period for the SUNSET proposed rule. One comment stated that ''HHS did not provide . . . a meaningful opportunity for comment'' under the APA. Another comment stated that the Department ''failed to provide any justification for the unusually short 30-day comment period'' for portions of the proposed rule. The comment stated that the ''ability of the public to meaningfully and thoroughly comment on all aspects of the [SUNSET proposed rule] was compromised by the lack of prior notice and the shortened comment period.''

Response: The Department shares the commenters' concerns that the 30-day comment period on the SUNSET proposed rule did not provide a meaningful opportunity for comment in this particular rulemaking. The SUNSET final rule was indisputably complex and vast in scope and impact, affecting thousands of regulations. Given the complexity of this rule, we are no longer confident in the Department's previous conclusion that the comment period during the initial SUNSET rulemaking was adequate. However, because the Withdrawal NPRM provided an opportunity for additional comment on the SUNSET final rule and because the SUNSET final rule is now being withdrawn, this procedural concern about the SUNSET proposed rule is now moot.

2. Legal Objections to Withdrawal of the SUNSET Final Rule

Comment: One comment asserted that the proposed withdrawal of the SUNSET final rule would be unlawful under the APA because HHS has not considered the ''relevant factor'' of compliance with the RFA. The comment stated that the SUNSET rule put HHS into compliance with the RFA, and that HHS ''ignored important factors'' when it ''fail[ed] to explain how [it] will, in the alternative to the SUNSET Rule, comply with the RFA.'' The comment also stated that HHS was obligated to explain how ''its actions during the delay [of the SUNSET rule effective date] complied with its RFA obligations.''

Response: HHS agrees that it must consider ''relevant factors'' in issuing this withdrawal decision, including the requirements of applicable statutes and the impact of the SUNSET final rule on stakeholders. Thus, the Department's statutory obligations under the RFA is one of the factors we must consider. Elsewhere in this preamble, the Department has discussed in detail how it complies with the RFA's requirements to publish a plan for periodic review and a list of the rules to be reviewed each year and how it completes regular reviews of its regulations under section 610. All of these RFA activities continued during the delay of the effective date for the SUNSET final rule. HHS intends to continue its current practices under the RFA. Thus, HHS has considered the factor of compliance with the RFA and does not believe this factor requires the Department to retain the SUNSET final rule.

Comment: One comment identified various factors that, in the commenter's view, are ''important aspects'' that HHS needs to consider under the APA in order to withdraw the SUNSET final rule. The comment stated that these factors include (1) ''the disruption that . . . this repeal rule would have on the agency and on public participation in the review process'' and ''the degree of regulatory uncertainty that [this rule] create[s]''; (2) ''the interests of doctors who would benefit from the on-time implementation of the SUNSET Rule to rules like the gender identity [nondiscrimination] mandate in HHS's Section 1557 rule under the ACA, HHS's gender identity [nondiscrimination] mandate in its grants rule 45 CFR 75.300(c) and (d), and HHS's conscience rule at 45 CFR part 88''; and (3) the public's ''interests in participating in notice and comment procedures to lift regulatory burdens on small entities.''

Response: We disagree with this comment's characterization of this rulemaking and its assessment of its impacts. With respect to the first factor identified in the comment, concerning disruption to the agency and the public, HHS has determined that it is the SUNSET final rule, and not withdrawal of the SUNSET final rule, that will disrupt the Department's operations and create regulatory uncertainty. With elimination of the SUNSET final rule, HHS agencies and the public can have confidence that resources will continue to be allocated in the manner that best promotes the Department's mission, and that HHS's regulations will be amended or repealed through the well-established APA rulemaking processes. Because the SUNSET rule never took effect, the Department has not taken any implementation steps that would be disrupted by this withdrawal. Furthermore, because the rule never took effect, HHS has no reason to believe that the public has developed processes or expectations that would be disrupted by this withdrawal. This is particularly true given that the SUNSET final rule was issued on January 19, 2021, and a new administration, with new policies and priorities, entered office on January 20, 2021. Even in the unanticipated circumstance that significant reliance interests have developed, we believe those interests would be outweighed by the important reasons for withdrawal identified in this preamble.

With respect to the second factor, the suggestion that the expiration of regulations under the SUNSET final rule will benefit certain doctors who disagree in conscience with certain HHS rules is entirely speculative, and we do not agree that it is an ''important aspect of the problem'' that must be evaluated in connection with this withdrawal action. Even if this could be considered a relevant factor, the interests of this one subgroup do not outweigh the many important reasons for withdrawing this rule, including differing views on the same regulations as well as the risks the rule poses to a far larger sector of the U.S. population.

With respect to the third factor, concerning the public's interest in participating in a notice and comment process to lift regulatory burdens on small entities, HHS notes that under its current processes, the public already has an opportunity to participate in this type of notice and comment process when the Department conducts reviews under section 610. Indeed, section 610(c) requires HHS to ''invite public comment'' on rules that are being reviewed under the RFA. Furthermore, the Department publishes its semiannual Regulatory Agenda for the express ''purpose of . . . encourag[ing] more effective public participation in the regulatory process.'' [58] In addition,

and 85 FR 21795). Finally, the exemptions are underinclusive: The Department failed to include other regulations that are similar, such as those codifying the standards for human blood and blood products or those codifying animal drug approvals.

[58] *See, e.g.,* Regulatory Agenda, 87 FR 5226 (Jan. 31, 2022).

HHS implements Department-wide initiatives to support that purpose, including the Department's regulatory web page with resources such as links to HHS rules currently open for public comment and an ''HHS Regulations Toolkit'' providing background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments.[59] Thus, to the extent that this is a relevant factor, HHS has considered this factor and does not agree it justifies retaining the SUNSET final rule.

Comment: A few comments asserted that HHS has not adequately considered the benefits of the SUNSET final rule, in violation of the APA. One comment stated that the Withdrawal NPRM was ''inadequately supported'' because HHS has not provided ''any meaningful analysis or balance of the two sides of the issues.'' Another comment asserted that the benefits of the SUNSET final rule were an ''important aspect of the problem'' that HHS had ignored.

Response: In Section V.C.3 of this preamble, the Department has considered and addressed the various benefits asserted by commenters to be associated with the SUNSET final rule. Overall, we consider many of these benefits to be speculative, and we question whether they would transpire as a result of the SUNSET final rule. Furthermore, we have confirmed that the SUNSET final rule involves significant costs and legal vulnerabilities. In light of these considerations, we conclude that any benefits of the SUNSET final rule do not justify its costs and do not change the legal analysis of the expiration provision. Because HHS has considered the purported benefits and weighed them against the harms in determining that the rule should be withdrawn, we have fulfilled any applicable obligation under the APA.

Comment: One comment asserted that ''HHS has not offered sufficient new reasons to change course'' and withdraw the SUNSET final rule because ''each reason [provided in the Withdrawal NPRM] had been considered and rejected in the SUNSET rule.'' The comment also claimed that the Department did not give the public an adequate opportunity to comment because the Withdrawal NPRM did not ''disclos[e] to the public HHS's reasons for changing its views.''

Response: HHS disagrees with the commenter that its reasons for withdrawal, as stated in the Withdrawal NPRM and here, are inadequate or were inadequately communicated to the public. In both documents, HHS identified a number of reasons why this withdrawal is appropriate, and we explained in detail why these reasons are persuasive even in light of the Department's prior analysis. We have been clear that the SUNSET final rule contained significant errors of fact and law and is contrary to the policies of the current Administration.

For example, we explained that in the SUNSET final rule, HHS failed to give sufficient consideration and weight to the many comments opposing the SUNSET proposed rule and grossly miscalculated the resources required to comply with the rule and the manner in which the rule would affect the Department. Because of that, HHS improperly dismissed the many concerns raised about the diversion of HHS's resources from other key initiatives and the harms of expired regulations, among other things. Although HHS may have previously ''considered and rejected'' these considerations, HHS's decision-making relied on a fundamentally flawed premise and therefore was unsound.

In addition, we have explained that, upon review, we believe HHS previously overlooked key legal defects in the justification for the expiration provision, which we now must consider in the context of withdrawal. We have also cited the policy goals of the current Administration, which strongly support a change in course here. It is our view that burdens imposed by the SUNSET final rule could undermine the Department's ability to fulfill its public health and human services missions, promote national priorities, and confront the challenges facing the nation. We have also further considered the evidence HHS previously cited to establish the purported need for or benefits of the SUNSET final rule, and we have explained why we no longer consider that evidence to justify the rule. In light of these and other reasons provided throughout this preamble and in the Withdrawal NPRM, HHS has adequately justified the change in course.

Comment: One comment suggested that it is arbitrary and capricious for HHS to consider the harms of expiration in determining whether to withdraw the SUNSET final rule. The comment expressed the view that the SUNSET final rule does not exceed the requirements of the RFA, and because HHS must comply with the RFA, HHS should assume it can also comply with the SUNSET final rule and avoid expiration. The comment posited that, because letting anything expire under the SUNSET rule would violate the RFA, HHS should not consider expiration (and the resulting harms) within the realm of possibility.

Response: We disagree. This comment is premised on the incorrect assumption that the RFA requires HHS to conduct assessments and reviews under the processes specified in the SUNSET final rule. As noted elsewhere in this preamble, that is not true: The requirements of the SUNSET final rule far exceed the requirements of the RFA. Because of that, it is entirely reasonable for HHS to predict that it will not be able to conduct the assessments and reviews in the timeframes required under the SUNSET final rule, such that regulations will expire, but that it can, at the same time, fully comply with the RFA. Moreover, HHS believes that the risk of expiration is exactly the type of relevant factor it is required to consider. HHS can and must consider whether its self-imposed retrospective review scheme will consume such resources, and creates such an existential threat, that duly promulgated regulations will disappear for reasons that have nothing to do with their regulatory value.

Comment: One comment asserted that withdrawal of the SUNSET final rule will render HHS noncompliant with the RFA's requirements, including the requirement to publish a plan for periodic review, such that withdrawal is unconstitutional under the Take Care Clause, the Supremacy Clause, and the separation-of-powers doctrine. The comment stated that ''[n]either the President nor HHS can render optional a statutory directive that HHS publish a plan to periodically review its code of regulations.''

Response: HHS disagrees that maintaining the SUNSET final rule is necessary to prevent non-compliance with the RFA. In Section V.C.2, the Department discussed its compliance with the RFA, including compliance with the ''plan'' requirement under section 610(a). In light of this compliance, to the extent that the Take Care Clause, Supremacy Clause, or separation-of-powers doctrine are implicated here, the President and the Department have fully discharged their responsibilities under those authorities.

3. Proposed Modifications to the SUNSET Final Rule

Comment: Some commenters stated that HHS should withdraw the SUNSET final rule in its entirety, citing, for example, the continuing uncertainty the rule would create. Other commenters identified modifications to the SUNSET

[59] *See, e.g.,* Regulatory Agenda, 86 FR 16892 (Mar. 31, 2021).

final rule, short of full withdrawal, that they believed could address the Department's concerns as described in the Withdrawal NPRM. These proposed alternatives included providing a longer period for reviewing existing rules or forgoing the review of existing rules; providing a longer period for undertaking the reviews; reviewing only a subset of existing rules, such as those that have already been designated as having a SEISNOSE, are significant rules, are major rules, have unfunded mandates, or arise out of a particular section of the CFR, subagency, or statute; and narrowing or eliminating the expiration provision. Some of these commenters also suggested that the Withdrawal NPRM conceded that such targeted approaches are desirable. These commenters asserted that the Withdrawal NPRM failed to seriously consider alternatives and asserted that neither of the two alternatives considered in the Withdrawal NPRM's economic analysis offers a targeted approach.

Response: The Department agrees with the commenters who supported full withdrawal, but thanks the other commenters for offering these proposed modifications. In evaluating these proposals, we must balance the relevant factors and determine whether the various proposals advance the mission, policies, and priorities of the Department. We must take into account both competing statutory obligations and significant public health and welfare considerations, among other things. *See Motor Vehicle Mfrs. Ass'n of the U.S., Inc.* v. *State Farm Mut. Auto Ins. Co.,* 463 U.S. 29, 43 (1983) (holding agencies must consider each ''important aspect of the problem''). After assessing the benefits and harms of the SUNSET final rule's binding program of retrospective review, the statutory obligations for HHS to follow lawful regulatory processes and establish and maintain programs that serve the public health and welfare, and the Department's basic public health mission, we have concluded that the relevant factors weigh heavily in favor of withdrawing the SUNSET final rule in its entirety. To the extent that there are any issues with HHS's current retrospective review process, those issues should be addressed through other means than this rulemaking. Our reasoning is set forth below.

First, the Department has determined that any version of a retrospective review program established through binding regulations could undermine our mission to advance public health and welfare. Legislative rules impose a legal duty on the Department to conduct retrospective review regardless of other urgent priorities, and they create an avenue for litigation based on non-compliance. While the Department acknowledges that there is value in retrospective review and has a plan for such review, the resources allocated for retrospective review can and should vary depending on the circumstances facing an agency. A prescriptive, binding review framework can improperly skew priorities, forcing the Department to elevate review above other public health initiatives that may be more important. The emergence of a global pandemic, for example, has shown how HHS must have the flexibility to adapt as new public health demands arise.

In the RFA, Congress recognized the importance of this type of flexibility. Importantly, the RFA does not direct agencies to issue rules binding themselves to a prescriptive program of retrospective review. Instead, it directs agencies to ''publish in the **Federal Register** a *plan* for the periodic review of [certain] rules.'' 5 U.S.C. 610(a) (emphasis added). This plan can be ''amended by the agency *at any time* by publishing the revision in the **Federal Register**.'' *Id.* (emphasis added). Congress could have required agencies to proceed through notice-and-comment rulemaking to bind themselves to a review program. It certainly demonstrated awareness of that procedural mechanism, given that the RFA is squarely focused on rules promulgated through notice-and-comment rulemaking. But instead, Congress tasked agencies with establishing a ''plan'' by **Federal Register** publication that can be amended ''at any time''—*i.e.,* a plan that can be adjusted as circumstances arise to preserve and support underlying programs. The fact that Congress chose not to direct agencies to issue binding regulation to implement the RFA, and the fact that such binding regulations would by their nature place outsized importance on retrospective review, weigh heavily in favor of wholesale withdrawal (rather than modification) of the SUNSET final rule.

Second, the Department must keep in mind its statutory obligations to follow lawful regulatory processes and to fulfill substantive statutory objectives. As explained earlier in this section, many comments asserted that the expiration provision in the SUNSET rule violates the APA. In the SUNSET final rule, HHS previously asserted that the expiration provision is a cornerstone of the SUNSET rule. It described the rule as not just creating a framework for retrospective review but also ''impos[ing] a strong incentive on [the Department] to perform retrospective review.'' 86 FR 5697. It stated that ''absent such a forcing mechanism, the Department will not conduct as many retrospective reviews as desired'' and that ''it is nearly impossible to see how a satisfyingly comprehensive review could occur without a sunset mechanism.'' 86 FR 5723, 5702. HHS even considered whether the expiration provision should be severable from other portions of the rule, but expressed doubt ''that the proposed rule could properly function without the expiration dates.'' 86 FR 5734. Thus, the expiration provision is a key animating feature of the SUNSET final rule. However, as explained above, HHS now agrees with the many commenters who asserted that the expiration provision is not adequately justified and is unlawful under the APA. Moreover, in Section V.C.1, we expressed doubt that the expiration provision is consistent with the intent and purpose of the RFA. And, where Congress has empowered the Department to promulgate specific substantive regulations, automatic expiration of those regulations could conflict with Congressional purpose, as well as violate the APA. In light of our new conclusions about a fundamental premise of the SUNSET final rule, the best course is for the rule to be retracted and for the Department to then take a fresh look at next steps.

Third, even if the Department determined that a binding regulation for retrospective review were appropriate, and even if the legal issues with the automatic expiration provision did not fundamentally undermine the rule, HHS has considered alternatives within the ambit of the existing policy and has determined that they either are not viable or should not be adopted.[60] Most of the alternate proposals presented by commenters retain the key animating feature of the SUNSET final rule—automatic expiration. But as explained in the Withdrawal NPRM and in this preamble, the automatic expiration provision is in our view unlawful and could lead to significant harm, including a significant burden on stakeholders such as small entities. The uncertainty resulting from the sudden expiration and threat of sudden expiration of regulations could create numerous negative repercussions for stakeholders and for the public health, including undermining the effective

[60] As explained further in the regulatory impact analysis in Section VI, the Department conducted a quantitative analysis of four alternatives, including alternatives recommended by commenters.

implementation of Federal/State partnership programs such as Medicaid that rely on HHS rules establishing national standards for these programs, hindering the ability of programs that rely on Federal funding to apply for or receive that funding or engage in long-term planning, and impeding product development and innovation. Moreover, as explained in a prior comment response, regulatory uncertainty created by the SUNSET final rule, if effective, would disproportionately burden small entities who rely on regulations to level the playing field and lack resources to navigate the resulting confusing regulatory landscape. This result would be inconsistent with the RFA's purpose of alleviating disproportionate burdens on small entities. Furthermore, the expiration of any regulations under the SUNSET final rule—which the Department now predicts would be unavoidable—means the public would lose any protections, entitlements, and other public health benefits those regulations provide. Leaving the automatic expiration provision intact in any form would not address the Department's concerns that the provision is unlawful under the APA and inconsistent with the RFA and, in some cases, the Congressional purposes of the authorizing statutes for particular sets of regulations.

Other commenters proposed modifying the SUNSET final rule to eliminate the automatic expiration provision. HHS has considered this alternative as well, and we have determined that a regulation that retains any of the other key features of the SUNSET final rule—such as widespread assessments or provisions imposing accelerated timelines for assessments and reviews—is not viable or appropriate because those provisions impose significant and unnecessary burdens on the Department and stakeholders. As explained in a prior comment response, the requirement to conduct thousands of assessments on a continuing basis, including the requirement to comply with notice and comment procedures for each assessment, are both onerous and unnecessary methods of identifying the minority of rules which have or will have a SEISNOSE and is inconsistent with the intent of section 610 and the RFA's purpose. Even if the Department also limited the scope of rules subject to assessment, as some commenters suggested, those proposals raise the concerns that (1) the Department could miss rules that have or will have a SEISNOSE (because the scope would be limited based on criteria unrelated to SEISNOSE, such as imposing an unfunded mandate), and (2) the process for assessments under the SUNSET final rule, such as the inclusion of a comment period, is still unnecessarily burdensome. In addition, the five-year timeframe for assessing and reviewing existing regulations and the two-year timeframe for amending or rescinding regulations based on the results of a SUNSET final rule review impose additional unnecessary burdens on the Department. Proposals that do not eliminate these requirements are not viable or desirable because they fail to resolve the Department's concerns with the drain on resources resulting from these provisions and force the Department to elevate retrospective review above other public health initiatives that may be more important. The Department has the discretion to ''prioritize regulatory actions in a way that best achieves the objectives'' of the RFA, other applicable statutes, and its public health and welfare mission, *see WildEarth Guardians* v. *EPA,* 751 F.3d 649, 656 (D.C. Cir. 2014), and the Department has determined that these proposals would not best achieve its objectives.

The Department also considered alternatives that combine proposals from various commenters (even though these combinations were not specifically proposed), and we reject those alternatives for various reasons. As discussed, retaining any portion of the SUNSET final rule would run counter to HHS's view that its section 610 ''plan'' should not be codified in regulations, and it would not address the concern that elimination of the expiration provision fundamentally changes the nature and purpose of the SUNSET final rule such that wholesale reevaluation of the effort is required. We have also determined that lengthening the various timelines in the rule would not adequately address our concerns. The Regulatory Impact Analysis for this withdrawal rule considers the policy alternative of an initial ten-year period following the effective date to assess and review all regulations, for example, and while that policy alternative temporally shifts some of the burden on HHS, it does not meaningfully reduce the burdens. Indeed, even if HHS eliminated all of the most concerning provisions of the SUNSET final rule—such as the expiration provision, the assessment process, and the narrow timeframes—the remaining portions of the SUNSET final rule are still fundamentally flawed because they do not provide for a logical or reasonable approach to retrospective review under the RFA. For example, these provisions require recurring review of ''Sections that were issued as part of the same rulemaking (and any amendments or additions that may have been issued thereafter).'' *See, e.g.,* 86 FR 5751. But such Sections are often themselves ''amendments or additions'' to existing rulemakings, so this language suggests that these Sections would need to be reviewed multiple times in connection with each of those existing rulemakings and any future rulemakings amending such Sections. This methodology for implementing the RFA is unreasonable and should not be retained. As another example, the SUNSET final rule contains exceptions from the review processes, but upon review, these exceptions are not only ambiguous and difficult to implement, but also apparently inconsistent with the language in section 610 of the RFA that contemplates review of all regulations based on whether they have or will have a SEISNOSE. In sum, HHS has not identified any substantive portion of the SUNSET final rule that is worth retaining.[61]

As evidenced by the discussion in this preamble, the Department has considered numerous alternatives to withdrawal of the SUNSET final rule, including commenters' proposed alternatives, and has explained its reasons for rejecting those alternatives. Contrary to one commenter's suggestion, the alternatives considered by HHS were not limited to the alternatives identified in the Withdrawal NPRM's economic analysis. Therefore, the Department has satisfied its obligation to ''consider the 'alternative[s]' that are 'within the ambit of the existing [policy],' '' *Regents,* 140 S. Ct. at 913 (2020) (quoting *State Farm,* 463 U.S. at 51), and give ''adequate reasons for its abandonment'' of any such alternatives, *State Farm,* 463 U.S. at 51. Moreover, the Department notes that those precedents make clear that an agency is ''not required to . . . 'consider all policy alternatives in reaching [its] decision' '' and is ''not compelled to explore 'every alternative device and thought conceivable by the mind of man.' '' *Regents,* 140 S. Ct. at 1914 (first quoting *State Farm,* 463 U.S. at 51; then quoting *Vt. Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.,* 425 U.S. 519, 551 (1978)); *see State Farm,* 463 U.S. at 51 (''Nor do we broadly require an agency to consider all policy alternatives in reaching

[61] The Department notes that several comments suggest that extensively revising the rule would require a new rulemaking under the APA or at least an additional notice and comment period.

decision. It is true that a rulemaking 'cannot be found wanting simply because the agency failed to include every alternative device and thought conceivable by the mind of man . . . regardless of how uncommon or unknown that alternative may have been . . . .''). Therefore, HHS has satisfied any obligation to consider alternatives to withdrawal of the SUNSET final rule under *State Farm* and *Regents.*

4. Other Legal Issues

Comment: One comment alleged various legal defects associated with the Administrative Delay, which delayed the effective date of the SUNSET final rule under 5 U.S.C. 705. 86 FR 15404. The comment stated, for example, that the Administrative Delay was untimely, that HHS unlawfully skipped notice-and-comment processes under 5 U.S.C. 553, and that the Administrative Delay was not lawfully issued under section 705. The comment stated that because the Withdrawal NPRM ''relies essentially on the purported legitimacy of the [Administrative Delay],'' it ''is part and parcel of an unlawful delay, and therefore is fruit of a poisonous tree that is arbitrary and capricious and abuse of discretion under the APA.''

Response: HHS disagrees with the suggestion that the Administrative Delay suffers from any legal defect, and we are not aware of any legal basis for the commenter's assertion regarding the applicability of a fruit-of-the-poisonous-tree doctrine.

In any event, criticisms of the Administrative Delay are outside the scope of this rulemaking proceeding. In this proceeding, HHS has proposed and has sought comment on withdrawal of the SUNSET final rule. That proposal is separate from the Administrative Delay. While the Department continues to believe that the Administrative Delay was lawful, we disagree with the commenter that the Administrative Delay—whether lawful or unlawful—affects or is otherwise relevant to this withdrawal action.

Moreover, the Department is withdrawing the SUNSET final rule well before the first deadline for completing assessments and reviews of Department regulations would have occurred if the rule had taken effect absent the Administrative Delay. Accordingly, any question of the validity of the Administrative Delay is now moot.

Comment: One comment noted that the Withdrawal NPRM proposed to ''withdraw or repeal'' the rule and requested that the Department clarify whether it intends to withdraw vs. repeal the SUNSET final rule and identify any advantages and disadvantages associated with each action. Although the comment acknowledged that both withdrawal and repeal are methods to revoke a rule, it asserted that withdrawal of a rule from the Office of the Federal Register ordinarily takes place prior to a rule's publication whereas a notice-and-comment rule that has become effective generally needs to be repealed through notice-and-comment rulemaking.

Response: As used in this rulemaking, the terms ''withdraw'' and ''repeal'' refer to the timing of the issuance of this final rule relative to the effective date of the SUNSET final rule. When HHS issued the Withdrawal NPRM, it was not certain about future timing and therefore referred to both withdrawal and repeal in the alternative. Because the effective date of this final rule will occur before the effective date of the SUNSET final rule,[62] HHS is withdrawing the SUNSET final rule before it ever becomes effective.

Because the Department has engaged in notice and comment rulemaking, it need not address the question of whether it could have withdrawn the rule *without* notice and comment procedures. Whether this final rule is characterized as a ''withdrawal,'' ''repeal,'' or ''rescission'' is ultimately of no consequence to the validity of this rulemaking,[63] because HHS has engaged in notice and comment under the APA, and the revocation (under any label) of the SUNSET final rule is fully justified for all of the reasons we have set forth in this preamble. In addition, even if ''withdrawal'' of the SUNSET final rule were not appropriate due to some alleged defect in the Administrative Delay (which HHS does not believe exists), the Department would have repealed the rule, through a process identical to this process, for the reasons explained throughout this preamble.

Comment: One comment urged HHS to fully incorporate all public comments to the SUNSET proposed rule into the administrative record for its withdrawal of the SUNSET final rule. The commenter noted with approval that the Withdrawal NPRM discusses concerns raised in the comments to the SUNSET proposed rule.

Response: The Department agrees with the comment that all public comments to the SUNSET proposed rule are properly part of the administrative record for this rulemaking proceeding. As the comment acknowledged, the Department considered the public comments to the SUNSET proposed rule before it issued the Withdrawal NPRM. *See, e.g.,* 86 FR 59906 (''After reconsideration of the comments submitted on the SUNSET proposed rule (85 FR 70096 (Nov. 4, 2020)), HHS is now issuing this notice of proposed rulemaking to withdraw or repeal the SUNSET final rule.''). Therefore, those comments are properly part of the administrative record for this final rule. *See, e.g.,* 21 CFR 10.3 (FDA regulation defining ''Administrative record'' as ''documents . . . on which the Commissioner relies to support the action''); 42 CFR 405.1042 (Office of Medicare Hearings and Appeals regulation defining administrative record as ''complete record of the evidence and administrative proceedings on the appealed matter''). The Department notes that many of the comments to the Withdrawal NPRM discussed or attached copies of public comments to the SUNSET proposed rule and are therefore part of the administrative record for this rulemaking for that reason, as well. *See, e.g.,* 21 CFR 10.40(g) (FDA regulation instructing that the record of the administrative proceeding for the promulgation of rules consists of ''[a]ll comments received on the proposal, including all information submitted as part of the comments''); 42 CFR 431.416 (CMS regulation defining administrative record for State Medicaid and CHIP demonstration projects to include ''[w]ritten public comments sent to the CMS and any CMS responses'' and ''all documentation related'' to a project application).

E. Vague and Confusing Provisions

In the Withdrawal NPRM, we explained that, upon reconsideration, the Department found many ambiguities in the SUNSET final rule that could impede the ability of the Department and the public to determine the scope and timing of the assessment and review process. 87 FR 59922. This confusion would have increased the burden on stakeholders trying to navigate the assessment and review process. Process

[62] *See* 86 FR 15404 (extending SUNSET final rule effective date of until March 22, 2022); 87 FR 12399 (further extending SUNSET final rule effective date until September 22, 2022).

[63] However, we note that, upon judicial review, a decision to withdraw a rule that is not yet effective may be accorded even more deference than a decision to repeal a rule in effect. *Cf. Int'l Union, United Mine Workers of Am.* v. *U.S. Dep't of Lab.,* 358 F.3d 40, 43 (D.C. Cir. 2004) (courts ''give more deference to an agency's decision to withdraw a proposed rule than . . . to its decision to promulgate a new rule or to rescind an existing one''); *Williams Nat. Gas Co.* v. *F.E.R.C.,* 872 F.2d 438, 444 (D.C. Cir. 1989) (noting that the ''application of the 'arbitrary and capricious' standard must be informed by [the court's] recognition that an agency's decision to retain the status quo may be more easily defensible than a shift in policy would be'').

ambiguities would also increase the risk of the automatic expiration of HHS regulations due to inadvertent noncompliance or misapplication of the requirements. We received the following additional comments on this topic.

Comment: Many commenters agreed that the SUNSET final rule would create burdens, confusion, and uncertainty over which regulations are likely to remain in effect, and overall decrease predictability, transparency, and public engagement critical to the regulatory process. Ambiguities in the regulatory text would contribute to those problems. One comment, for example, stated that the SUNSET final rule contained many ambiguities that could impede the ability of HHS and the public to determine the scope and timing of the assessment and review process. Another comment criticized the SUNSET final rule for confusing definitions. Another comment opined that the rush to issue the SUNSET final rule, with the extremely short time for stakeholder comment and unprecedented acceleration of the timeline for completion of the rulemaking, resulted in an inadequately considered and drafted final rule, with provisions that are overly vague, lack needed details, and are impractical to implement.

Response: We agree with these concerns. For example, as explained in Section V.D of this preamble, the SUNSET final rule requires recurring review of ''Sections that were issued as part of the same rulemaking (and any amendments or additions that may have been issued thereafter).'' But such Sections are often themselves ''amendments or additions'' to existing rulemakings, so this language suggests that these Sections would need to be reviewed multiple times in connection with each of those existing rulemakings and any future rulemakings amending such Sections. This methodology for implementing the RFA is unreasonable and confusing.

For example, the FDA rulemaking ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food'' (Preventive Controls for Human Food) was published on September 17, 2015 (80 FR 55907). However, in addition to new sections first promulgated in 2015, the rule also included revisions to sections of the CFR that were first promulgated in 1975, 1979, 1986, 1995, 1997, 2001, 2004, and 2008. The SUNSET final rule suggests that, because these revised sections were issued as part of the 2015 rulemaking, the Department would need to review these revised sections multiple times—first, as part of a review of the 2015 rulemaking, and then again as part of the Department's reviews of the rulemakings in which those sections were first promulgated or previously revised. Moreover, the complexity of this process would be compounded by the fact that each of these sections of the CFR, because they were promulgated at different times, would have different expiration dates under the SUNSET final rule.

Comment: The Withdrawal NPRM also expressed concern about ambiguity in the categories of exceptions described in the proposed rule and included in the final rule.[64] Numerous commenters on the SUNSET proposed rule noted the lack of examples provided, and stated the lack of clarity for the categorical exceptions would leave the public unable to know which regulations would be eligible for the exceptions. Accordingly, some commenters stated that stakeholders would face a burden to conduct their own legal analysis.

Response: In the Withdrawal NPRM, we agreed with these comments, and we continue to agree with them now. We explained that the SUNSET final rule failed to provide meaningful examples of these exceptions and recognized the possibility that this lack of clarity could delay the completion of the assessment process and place further strain on the resources and effort needed to avoid the expiration of regulations. Commenters on the Withdrawal NPRM confirmed this view. For example, one commenter explained that, rather than vaguely indicate that certain types of regulations may be subject to exceptions, the SUNSET final rule should have identified the regulations more specifically, so that commenters could engage in the comment process, and stakeholders could better understand the rule if implemented. Another commenter criticized the scope of the exceptions in the SUNSET final rule for their failure to ensure that these exceptions would avert the expiration of a regulation in the event of a pandemic or other declared national or public health emergency.

In addition, many commenters on the original SUNSET proposed rule stated that it was improper for the final rule to exclude the SUNSET final rule itself from the requirements of Section (c) of each of the codified provisions, meaning that under the rule, the rule itself is not subject to assessment, review, or expiration. The SUNSET final rule based this exemption on an assumption that the SUNSET final rule would not ''directly impose on the public costs that exceed benefits'' because no rules would expire due to lack of assessment or review. 86 FR 5730. The Department now concludes that this assumption was incorrect and therefore does not justify the double-standard inherent in this aspect of the SUNSET final rule.

VI. Final Regulatory Impact Analysis

A. Introduction, Summary, and Background

1. Introduction

We have examined the impacts of the final withdrawal rule under E.O. 12866, E.O. 13563, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). E.O.s 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this final withdrawal rule is a significant regulatory action as defined by E.O. 12866.

The RFA requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final withdrawal rule would result in cost savings to regulated entities, this analysis concludes, and the Secretary certifies, that the final withdrawal rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $165 million,

[64] The regulatory text of the SUNSET final rule consisted of one regulation, with multiple subsections, substantially replicated 10 times. Subsection (g) in the replicated regulatory text excluded (1) Sections that are prescribed by Federal law, such that the Department exercises no discretion as to whether to promulgate the Section and as to what is prescribed by the Section; (2) Sections whose expiration pursuant to this section would violate any other Federal law; (3) The SUNSET final rule; (4) Sections that involve a military or foreign affairs function of the United States; (5) Sections addressed solely to internal agency management or personnel matters; (6) Sections related solely to Federal Government procurement; and (7) Sections that were issued jointly with other Federal agencies, or that were issued in consultation with other agencies because of a legal requirement to consult with that other agency. Subsection (g) also excludes individual regulations specific to each HHS agency. 86 FR 5729.

using the most current (2021) Implicit Price Deflator for the Gross Domestic Product. This final withdrawal rule will result in an expenditure in at least one year that meets or exceeds this amount.

2. Summary of Costs and Benefits

The final withdrawal rule will withdraw the SUNSET final rule. This regulatory action will reduce the time spent by the Department performing retrospective assessments and reviews of its regulations, and time spent by the general public on comments related to these assessments and reviews anticipated under the SUNSET final rule. We monetize the likely reductions in time spent by the Department and the general public and report these impacts as cost savings. Our primary estimate of these cost savings in 2020 dollars, annualized over 10 years, using a 3% discount rate, totals $69.9 million. Using a 7% discount rate, we estimate $75.5 million in annualized cost savings. Table 1 reports these primary estimates alongside a range of estimates that capture uncertainty in the amount of time it will take the Department to perform each assessment and review, and uncertainty in the amount of time the public will spend on comments.

In addition to these monetized effects, the final withdrawal rule will also reduce regulatory uncertainty and regulatory confusion anticipated under the SUNSET final rule. Given the scope of the SUNSET final rule, these impacts would have been experienced by small businesses but also the general public, larger businesses, Tribes, States, non-governmental organizations, and other regulated entities and stakeholders across a wide range of industrial sectors. The final withdrawal rule will also reduce the time spent by the Department on other activities that we have not monetized or quantified, such as the time developing Small Entity Compliance Guides (SECGs), and it will reduce the time spent by the public monitoring regulations undergoing assessment or review and set to expire. The final withdrawal rule will also result in a disbenefit with respect to forgone information as a result of not performing the assessments and reviews.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF THE FINAL WITHDRAWAL RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered	
Benefits:							
Annualized Monetized $millions/year	.....	.....	.....	.....	7	.....	
	.....	.....	.....	.....	3	.....	
Annualized Quantified	.....	.....	.....	.....	7	.....	
	.....	.....	.....	.....	3	.....	
Qualitative	—Reduction in regulatory uncertainty and confusion. —Disbenefits from the information foregone from not performing assessments and reviews.						
Costs:							
Annualized Monetized $millions/year	−$75.5	−$40.1	−$110.9	2020	7	2022–2031	Cost savings from not performing assessments and reviews, and time spent by the public on comments.
	−69.9	−37.2	−102.7	2020	3	2022–2031	
Annualized Quantified	.....	.....	.....	.....	7	.....	
	.....	.....	.....	.....	3	.....	
Qualitative.							
Transfers:							
Federal Annualized Monetized $millions/year.	.....	.....	.....	.....	7	.....	
	.....	.....	.....	.....	3	.....	
From/To	From:			To:			
Other Annualized Monetized $millions/year.	.....	.....	.....	.....	7	.....	
	.....	.....	.....	.....	3	.....	
From/To	From:			To:			
Effects:							
State, Local or Tribal Government:							
Small Business:							
Wages:							
Growth:							

3. Summary of Changes

Compared to the preliminary regulatory impact analysis, this final regulatory impact analysis expands the discussion of regulatory alternatives, including a quantitative analysis of two additional alternatives recommended in public comments. Specifically, we analyze a policy option that would maintain the general framework of the SUNSET final rule but limit its scope to regulations that the Department previously identified as having a significant economic impact on a substantial number of small entities. We also analyze a policy option that would maintain the SUNSET final rule's requirements related to the timeline for assessing and reviewing all of the Department's existing regulations, but without the automatic expiration provision contained in the SUNSET final rule.

We have revised the discussion and estimates contained in this regulatory impact analysis to reflect regulatory action that administratively postponed the effective date of the SUNSET final rule. This analysis now states that the regulatory action will withdraw the SUNSET final rule, whereas the preliminary regulatory impact analysis

covered regulatory actions to withdraw or repeal the SUNSET final rule. We have made minor edits for clarity throughout the document. Finally, we have read and considered public comments addressing the regulatory impact analysis and respond to these comments in Sections V.A.3, C.3, and D.3 of this preamble.

4. Background

On January 19, 2021, HHS issued the ''Securing Updated and Necessary Statutory Evaluations Timely'' final rule. Under the SUNSET final rule, all HHS regulations less than ten years old, with certain exceptions, will expire ten years after issuance, unless HHS performs an assessment of the regulations and a more detailed review of those regulations that have a significant economic impact upon a substantial number of small entities. The SUNSET final rule also provides for regulations older than ten years to expire unless assessed and, if applicable, reviewed within an initial five-year period. After this initial assessment and review process, the SUNSET final rule requires continuing assessments and reviews every ten years under threat of expiration. HHS published a regulatory impact analysis (SUNSET RIA) alongside the final rule, providing estimates of the likely impact of the policy on Departmental resources and time spent by the general public related to these efforts. Following the initiation of litigation, HHS issued an administrative delay of effective date, effective as of March 19, 2021, which extended the effective date of the SUNSET final rule by one year to March 22, 2022. HHS issued a second administrative delay of effective date, effective as of March 4, 2022, which further extended the effective date of the final rule by six months to September 22, 2022. For the purposes of this analysis, we refer to the January 19, 2021, final rule and the two administrative delays collectively as the SUNSET final rule. On October 19, 2021, HHS published a proposed rule to withdraw or repeal the SUNSET final rule.

B. Market Failure or Social Purpose Requiring Federal Regulatory Action

The SUNSET final rule established automatic expiration dates for most of the Department's regulations, and a recurring assessment and review process that it must follow to avoid such expirations. The SUNSET final rule's RIA likely underestimated both the time commitment of a credible assessment and review process, and the time spent by the general public commenting on regulations undergoing assessment and review. Given the volume and heterogeneity of regulations affected, our current evaluation of the time commitment necessary to conduct credible assessments and reviews, the timeframes for completing these retrospective analyses, and subsequent regulatory actions anticipated as a result of these analyses, it is likely that regulations will automatically expire. The potential for regulations to automatically expire introduces regulatory uncertainty, with potential negative repercussions for stakeholders. The actuality of having regulations expire automatically could lead to regulatory confusion among stakeholders and harm the public health in numerous ways, as described in the preamble and this analysis. This final withdrawal rule is therefore needed to improve the functioning of government and to reduce the costs to the Department and the general public associated with the SUNSET final rule.

C. Purpose of the Final Withdrawal Rule

The purpose of the final withdrawal rule is to revoke the SUNSET final rule. This regulatory action will directly address the potential harm from the automatic expiration of the Department's regulations. The final withdrawal rule will generate cost savings to the Department from reductions in staff time spent on assessments and reviews, and on related activities. It will also generate cost savings to the general public by reducing time spent on public comments related to these assessments and reviews, and on other activities, such as monitoring potentially expiring regulations. The final withdrawal rule will also reduce any regulatory uncertainty from the potential automatic expiration of rules.

D. Baseline Conditions

We adopt a baseline that assumes the requirements of the January 19, 2021, SUNSET final rule [65] remain in place over the period of our analysis, accounting for the administrative delays of the effective date.[66] The SUNSET final rule RIA contains monetized estimates of the costs to the Department to perform retrospective analyses of existing regulations and the costs to the public to monitor and respond to anticipated regulatory actions taken by the Department following these retrospective analyses. For the purpose of estimating the time spent on retrospective analyses under the baseline of this analysis, we maintain the assumption in the SUNSET final rule RIA that the Department will satisfy the requirements of the SUNSET final rule and no regulations will automatically expire.[67] We also maintain various assumptions in the SUNSET final rule RIA relating to the timing of the effects and treatment of the one-year waiver provision that allows the Secretary to make one-time, case-by-case exceptions to the automatic expiration of a rule. We also maintain the SUNSET final rule RIA's choice of a 10-year time horizon for the analysis and adopt a base year of 2022 for discounting purposes. In this section, we reconsider several other assumptions underlying the cost estimates in the SUNSET final rule RIA, and discuss additional cost drivers not identified and monetized in the analysis. These revised estimates inform our baseline scenario of no further regulatory action. This analysis of the baseline scenario concludes that the SUNSET final rule likely underestimated to a significant degree the resources needed for the required undertaking.

Regulations Subject to the SUNSET Final Rule

We adopt the SUNSET final rule RIA's estimate of 18,000 regulations potentially subject to the SUNSET final rule that will need to be assessed in the first ten years. For each of these regulations, the Department will need to perform an assessment to determine whether the regulation imposes a significant economic impact on a substantial number of small entities. The SUNSET final rule RIA estimates that roughly five regulations on average are part of the same rulemaking and could be assessed at one time. We maintain this assumption and terminology, which results in a total of 3,600 assessments in the first ten years. Although we adopt the SUNSET final rule RIA's estimate that the Department would perform 3,600 assessments, this estimate may understate the number of assessments performed under the SUNSET final rule, since certain regulations would need to be assessed multiple times as part of separate

[65] 86 FR 5694.

[66] 86 FR 15404; 87 FR 12399.

[67] This approach allows for a more direct comparison with the estimates contained in the SUNSET final rule RIA and follows a common practice in regulatory impact analysis to assess costs assuming full compliance with the regulation. We supplement the full-compliance estimates by identifying the likely impacts associated with less than full compliance. The HHS *Guidelines for Regulatory Impact Analysis* (available at *https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf.*), Chapter 4 ''Assess Costs,'' contains a more complete discussion of this approach.

assessments. The SUNSET final rule RIA assumes that 11% of these assessments, or 396, are for regulations previously determined to have a significant economic impact on a substantial number of small entities, but reduces this figure to 370 to account for rulemakings that are likely to be reviewed for reasons other than the SUNSET final rule. This adjustment similarly reduces the estimate of the number of rulemakings impacted by the SUNSET final rule to 3,574 [=3600 − (396–370)].

For each of these 370 rulemakings, the Department will need to perform a review, which includes a retrospective regulatory flexibility analysis. The SUNSET final rule RIA distinguishes between the 44 rulemakings that predate the RFA and are unlikely to have an existing prospective regulatory flexibility analysis, and the remaining 326 rulemakings that are assumed to have an existing prospective analysis. The SUNSET final rule RIA also estimates there will be an additional 160 rulemakings assessed to have a significant impact on a substantial number of small entities that have not previously been identified as having a significant economic impact. The Department will need to perform a review of these rulemakings under the SUNSET final rule.

The SUNSET final rule provides for an initial five-year period for the Department to address regulations older than ten years. We maintain the assumption in the SUNSET final rule RIA that assessments and reviews required in the first five years will be completed evenly across this time period, and that the remaining assessments and reviews will be completed evenly across the next five-year time period. Of the 3,574 total assessments anticipated under the SUNSET final rule, 3,415 would occur during the first five-year period, an average of 683.0 assessments per year; while 159 assessments would occur during the second five-year period, an average of 31.8 assessments per year. Of the total reviews anticipated under the SUNSET final rule, 506 would occur during the first five-year period, an average of 101.2 reviews per year; while 24 assessments would occur during the second five-year period, an average of 4.8 reviews per year. Table D1 presents yearly counts of assessments and reviews anticipated under the baseline scenario. These figures are broadly consistent with the figures contained in the SUNSET final rule RIA; however, unlike that analysis, we do not reduce the number of assessments under the SUNSET final rule by the number of reviews performed, since these assessments occur first and serve to identify those regulations requiring review.

TABLE D1—BASELINE ASSESSMENTS AND REVIEWS UNDER THE SUNSET FINAL RULE

Year	Total assessments	Reviews			
		Pre-RFA	Post-RFA	Not specified	Total
2022	683.0	8.8	61.8	30.6	101.2
2023	683.0	8.8	61.8	30.6	101.2
2024	683.0	8.8	61.8	30.6	101.2
2025	683.0	8.8	61.8	30.6	101.2
2026	683.0	8.8	61.8	30.6	101.2
2027	31.8	0.0	3.4	1.4	4.8
2028	31.8	0.0	3.4	1.4	4.8
2029	31.8	0.0	3.4	1.4	4.8
2030	31.8	0.0	3.4	1.4	4.8
2031	31.8	0.0	3.4	1.4	4.8
Total	3574.0	44.0	326.0	160.0	530.0

Time per Assessment and per Review

The SUNSET final rule RIA contains estimates of the time per assessment and time per review performed under the SUNSET final rule. For each assessment, the SUNSET final rule RIA assumes that it will require between 3 and 10 hours to assess a rulemaking. For each review, the SUNSET RIA assumes that it will require between 250 and 500 hours to review rulemakings that predate the RFA, and between 40 and 100 hours to review rulemakings that postdate the RFA. For the 160 rulemakings newly found to have a significant impact, the SUNSET RIA assumes that it will take between 40 and 100 hours to complete a review.

The Department now concludes the SUNSET RIA likely underestimates the time necessary to credibly assess whether a regulation imposes a significant economic impact on a substantial number of small entities by a significant degree. The Small Business Administration (SBA) Office of Advocacy published ''A Guide for Government Agencies: How to Comply with The Regulatory Flexibility Act,'' detailing a step-by-step approach for analysts.[68] For each of the 3,574 rulemakings requiring an assessment under the SUNSET final rule, the Department will need to define the problem and describe the regulated entities, estimate economic impacts by size categories, and determine which size categories incur significant impacts. The SBA guide presents a two-page checklist containing the elements of an adequate certification. In practice, when performing a threshold analysis, analysts will face novel conceptual issues and data challenges, both of which require thoughtful consideration and professional judgement. The SUNSET final rule also requires HHS to open a docket and review public comments on each rulemaking being assessed. Furthermore, SBA indicates that it is not sufficient to rely on an assessment made at the time a regulation was published:

> In some cases, even if an agency was originally able to certify properly under section 605 of the RFA that a rule would not have a significant economic impact on a substantial number of small entities, changed conditions may mean that the rule now does have a significant impact and therefore should be reviewed under section 610. For example, many more small businesses may be subject to the rule now than when the rule was promulgated. The cost of compliance with a current rule may have increased sharply because of a required new technology. (SBA, pp. 80–81)

We assume that, under the baseline scenario of the SUNSET final rule, the Department will follow the

[68] Available at *https://cdn.advocacy.sba.gov/wp-content/uploads/2019/06/21110349/How-to-Comply-with-the-RFA.pdf.*

recommendations in the SBA guidance, and will perform a credible threshold analysis for each rulemaking to assess whether it imposes a significant economic impact on a substantial number of small entities. Each assessment will likely require time by an economist or other analyst to perform and document the threshold analysis, with input from at least one subject matter expert on the area of the regulation. Recognizing the need to fully respond to all the requirements, we modify the assumption in the SUNSET final rule RIA and adopt an estimate of 40 to 100 hours to complete a credible threshold analysis for each rulemaking requiring an assessment.

As described earlier, the SUNSET final rule RIA contains two estimates for the time necessary to perform a retrospective analysis as part of a review. For rulemakings published before the RFA was enacted, the SUNSET final rule RIA assumes between 250 and 500 hours per review. For rulemakings published after the RFA was enacted, the SUNSET final rule RIA assumes that a prospective regulatory flexibility analysis is available and further assumes that this will reduce the time necessary to complete a review, adopting a range of 40 and 100 hours per review. For the 160 rulemakings newly found to have a significant impact, the SUNSET RIA assumes that it will take between 40 and 100 hours to complete a review. The Sensitivity Analysis Section of the SUNSET final rule RIA acknowledges that ''[o]ne commenter noted that conducting a retrospective analysis can be as time-consuming and expensive as a prospective regulatory analysis, suggesting the Department's estimates of the time and expense of Reviews may be understated.'' Upon further consideration, the Department agrees that the commenter is likely correct.

For the analysis of this final withdrawal rule, we adopt the SUNSET final rule RIA estimate of 250 to 500 hours for all retrospective analyses performed as part of a review, regardless of when the underlying rulemaking was published, and regardless of whether the rulemaking was previously found to have a significant impact on a substantial number of small entities. If previously published prospective or retrospective regulatory flexibility analyses are generally available, analysts may be able to build off of these previous analytic efforts when developing a retrospective analysis under the SUNSET final rule. All else equal, this would suggest the average time per retrospective analysis may be closer to the lower-bound estimate of 250 hours. If these analyses are not generally available, this would suggest an average time per retrospective analysis closer to the upper-bound estimate of 500 hours. We do not address the assumption in the SUNSET final rule RIA that a prospective regulatory flexibility analysis is available for every rulemaking published after the RFA was enacted, because it does not impact the estimate of the overall time spent on reviews under the baseline scenario. Our approach also allows us to ignore the apparent internal inconsistency in the SUNSET final rule RIA underlying the time per review of the 160 rulemakings that are newly assessed to have a significant impact.

The SUNSET final rule RIA is not clear on what activities are included in its estimates of the time per review other than the time spent developing a retrospective analysis. We interpret the magnitudes of these estimates to exclude consideration of time spent on activities other than drafting the retrospective analysis. For example, the Department may need to conduct a study or survey to gather data to inform its analyses. We therefore include an additional 250 hours to 500 hours per review to account for this omission. This estimate reflects time spent by Department subject matter experts, lawyers, and other reviewers informing the retrospective analysis and providing feedback on draft analyses. It also reflects time spent by economists and other analysts developing the retrospective analysis to respond to this feedback, and time spent reading and incorporating evidence from other sources, including public comments. Table D2 summarizes the assumptions in the SUNSET final rule RIA and our revised assumptions for the final withdrawal rule of the time per assessment and time per review performed under the baseline scenario of the SUNSET final rule. Combining the time spent on retrospective analysis and on other related activities, we estimate that each review will take between 500 and 1,000 hours to complete.

TABLE D2—HOURS PER ASSESSMENT AND REVIEW

Baseline requirement	SUNSET final rule RIA		Final withdrawal rule	
	Low	High	Low	High
Assessment	3	10	40	100
Review: Retrospective Analysis, pre-RFA regulation	250	500	250	500
Review: Retrospective Analysis, post-RFA regulation	40	100	250	500
Review: Retrospective Analysis, Not Specified	40	100	250	500
Review: Other Activities	0	0	250	500

Time Spent by the Public To Monitor and Comment

Under the SUNSET final rule, the Department would create a docket on *www.Regulations.gov* for each assessment or review that the Department is conducting. The public would then be able to submit comments to the dockets of each rulemaking being assessed or reviewed. The SUNSET final rule RIA includes a discussion of the costs to the stakeholders to monitor and comment on regulations as these are undergoing assessment and review; however, the analysis assigns no costs to the Department associated with setting up these dockets or engaging with the comments. The analysis also does not monetize any other costs associated with operationalization of the SUNSET final rule, which also requires developing a schedule for activities associated with the SUNSET final rule, publishing monthly updates on the commencement of assessments and reviews, publishing the results of assessments and review (''including the full underlying analyses and data used to support the results'') once a year, and establishing a website dashboard to help the public monitor the Department's progress.

When estimating the impact on the public, the SUNSET final rule RIA assumes the public will wait until the assessments and reviews are complete and the Department has announced it intends to rescind or amend a rulemaking before commenting. Thus,

for example, the SUNSET final rule RIA first estimates that 53 rulemakings will be rescinded and another 159 rulemakings amended as a result of the retrospective analyses initiated as a result of the SUNSET final rule, monetizing the time spent by the public responding to those 212 rulemakings. The SUNSET final rule RIA assumes that, for each of the 53 rulemakings rescinded following a review completed under the SUNSET final rule, the public will submit 243 comments; and for each of the 159 rulemakings amended, the public will submit 486 comments. This will result in an estimated 90,153 comments, for which the SUNSET final rule RIA assumes will take between 5 and 15 hours to prepare. Presumably, this estimate is inclusive of finding out that the rulemaking is likely to be rescinded or amended, reading and understanding the rulemaking, completing further research, communicating with other stakeholders, identifying concerns, and drafting and submitting comments. The preamble to the SUNSET final rule anticipates that the Department will create on its website a dashboard that shows its progress on its Assessments and Reviews. Therefore, we assume that any reduction in the time spent by the public attributable to this dashboard is accounted for in these time estimates.

We have reconsidered the SUNSET final rule RIA's assumption that the public will wait until the Department has announced it intends to rescind or amend a rulemaking before commenting. Upon further consideration, the Department finds it more likely that the public will comment on rulemakings undergoing assessment and review rather than wait until learning the specific rulemakings that will be rescinded or amended as a result of these assessments and reviews. The Department's prior assumptions appear at odds with the decision to invite public comment during both the assessment and review processes. Furthermore, as discussed by the SBA, ''insights about an existing regulation received from regulated entities and other interested parties should be a key component of a retrospective rule review. By making the review process transparent and accessible, agencies are more likely to identify improvements that will benefit all parties at the conclusion of the review.'' [69]

This means that we assume that the public will comment on all 3,600 rulemakings subject to the SUNSET final rule that will be available for public comment in connection with a Department assessment or review, in contrast with the SUNSET final rule RIA, which assumes the public will offer no comments. We adopt the SUNSET final rule RIA's estimate of 486 comments per rulemaking, but instead apply this to the 530 rulemakings that, following a threshold analysis in an assessment, the Department will begin to review. We believe that the public will submit fewer comments for rulemakings undergoing an assessment (rather than a review), and adopt an assumption of 25 comments per assessment. We also adopt the SUNSET final rule RIA's assumption about the time spent per comment (between 5 and 15 hours) and apply it in the context of assessments and reviews. Table D3 summarizes a comparison of the assumptions in the SUNSET final rule RIA and in the baseline analysis of this final withdrawal rule of the comments per assessment and review, and for the subsequent regulatory actions to rescind or amend rulemakings.

TABLE D3—BASELINE COMMENTS PER ACTION

Baseline requirement	SUNSET final rule RIA	Final withdrawal rule
Assessment	0	25
Review	0	486
Rescission	486	N/A
Amendment	243	N/A

Considerations Related to Rescissions and Amendments

As described earlier, the SUNSET final rule RIA envisions the Department identifying and rescinding 53 rulemakings and amending 159 rulemakings following completed reviews under the SUNSET final rule. Upon further reflection and analysis, the Department no longer believes it was appropriate to unambiguously attribute subsequent regulatory actions of this nature to the SUNSET final rulemaking in the context of a regulatory impact analysis. Even if the challenging attribution questions could be resolved, we maintain that the SUNSET final rule RIA understates the impact of the SUNSET final rule since it implicitly assumes that the Department would not have to spend any time to develop and publish subsequent regulatory actions to rescind or amend existing regulations. This unstated assumption is difficult to justify given the resources required to undertake a full notice-and-comment rulemaking proceeding. Since these anticipated regulatory actions relate to regulations that have a significant economic impact on a substantial number of small entities, we expect that these actions will need to involve subject matter experts, legal review, policy coordination, Departmental clearance, and a communications strategy to bring transparency to the process. For certain regulatory actions, we anticipate review by the Office of Management and Budget. We have not attempted to estimate the time and resources associated with developing these regulatory actions or unambiguously attributed the costs of those actions to the SUNSET final rule.

Baseline Effect of the SUNSET Final Rule

To quantify the likely effect of the SUNSET final rule on the Department, we multiply the number of assessments and number of reviews from Table D1 by the assumptions relating to the time per assessment and time per review described in Table D2. To quantify the likely effect of the SUNSET final rule on the public, we multiply the figures in Table D1 by the assumptions relating to the comments per assessment and comments per review described in Table D3. This gives us estimates for the number of comments, which we then multiply by the time estimates per comment (between 5 and 15 hours) to estimate the total time spent by the public. Table D4 presents yearly estimates of hours spent related to assessments performed under the

[69] Available at *https://cdn.advocacy.sba.gov/wp-content/uploads/2019/06/21110349/How-to-Comply-with-the-RFA.pdf* pg. 83.

SUNSET final rule to the Department and the public. Table D5 presents comparable figures related to reviews. Table D6 presents the total time anticipated under the SUNSET final rule related to assessments and reviews.

TABLE D4—HOURS RELATED TO ASSESSMENTS UNDER THE SUNSET FINAL RULE

Year	Assessments	Department		Public	
		Low	High	Low	High
2022	683.0	27,320	68,300	85,375	256,125
2023	683.0	27,320	68,300	85,375	256,125
2024	683.0	27,320	68,300	85,375	256,125
2025	683.0	27,320	68,300	85,375	256,125
2026	683.0	27,320	68,300	85,375	256,125
2027	31.8	1,272	3,180	3,975	11,925
2028	31.8	1,272	3,180	3,975	11,925
2029	31.8	1,272	3,180	3,975	11,925
2030	31.8	1,272	3,180	3,975	11,925
2031	31.8	1,272	3,180	3,975	11,925

TABLE D5—HOURS RELATED TO REVIEWS UNDER THE SUNSET FINAL RULE

Year	Reviews	Department		Public	
		Low	High	Low	High
2022	101.2	50,600	101,200	245,916	737,748
2023	101.2	50,600	101,200	245,916	737,748
2024	101.2	50,600	101,200	245,916	737,748
2025	101.2	50,600	101,200	245,916	737,748
2026	101.2	50,600	101,200	245,916	737,748
2027	4.8	2,400	4,800	11,664	34,992
2028	4.8	2,400	4,800	11,664	34,992
2029	4.8	2,400	4,800	11,664	34,992
2030	4.8	2,400	4,800	11,664	34,992
2031	4.8	2,400	4,800	11,664	34,992

TABLE D6—TOTAL HOURS RELATED TO THE SUNSET FINAL RULE

Year	Department		Public	
	Low	High	Low	High
2022	77,920	169,500	331,291	993,873
2023	77,920	169,500	331,291	993,873
2024	77,920	169,500	331,291	993,873
2025	77,920	169,500	331,291	993,873
2026	77,920	169,500	331,291	993,873
2027	3,672	7,980	15,639	46,917
2028	3,672	7,980	15,639	46,917
2029	3,672	7,980	15,639	46,917
2030	3,672	7,980	15,639	46,917
2031	3,672	7,980	15,639	46,917

While these time estimates are significant, they are not inclusive of all costs expected under the SUNSET final rule. In addition to the quantified estimates above, we expect that the Department will experience other costs related to the requirements of the SUNSET final rule under the baseline scenario. For example, the estimates above do not include time spent reviewing guidance documents related to rulemaking undergoing assessment and review. They also do not include the time associated with developing SECGs for the 160 rulemakings newly found to have a significant impact on a substantial number of small entities, or the time associated with updating existing guidances for the same or related rulemakings. The figures above also omit the monetary costs to purchase data and data subscriptions that we anticipate will serve as critical inputs for the assessments and reviews, and costs associated with conducting formal evaluations to understand the impact of the rules. In addition, the estimates do not include the costs of resolving and communicating the meaning of ambiguous provisions in the SUNSET final rule. For example, HHS anticipates that it will take considerable work to determine when regulations must be assessed and reviewed as part of a particular rulemaking and when regulations fall within an exception. Even after that work is complete, additional resources are required to share those interpretations with the public. Furthermore, the figures do not account for the time and costs associated with HHS's efforts to reevaluate and redirect resources to support assessments and reviews and thereby preserve regulations.

As an additional consideration, we estimate that assessing and reviewing regulations will require the equivalent of 67 and 146 full-time employees in each of the first five years of the analysis, adopting the SUNSET final

rule RIA's estimate of 1,160 hours of work per year per employee.[70] Given current staffing and other Departmental needs and priorities, we anticipate the need to hire non-government experts to perform a share of the retrospective work. This approach will likely result in additional overhead costs that we have not quantified. We also anticipate the need to spend Departmental resources to find, hire, train, and transfer personnel with technical expertise to conduct the analyses, the costs of which have not been quantified in this analysis.

E. Benefits of the Final Withdrawal Rule

The monetized benefits of this regulatory action to withdraw the SUNSET final rule are the cost savings to the Department from not completing the assessments and reviews required under the baseline scenario, and the cost savings to the public from not commenting on these assessments and reviews. To monetize these cost savings, we multiply the hours related to the SUNSET final rule in Table D6 by the cost per hour of these activities. We adopt the SUNSET final rule RIA's ''estimates that the fully-loaded cost per hour to the Department to employ a person to conduct a Review or Assessment is $244.98 per hour'' [71] and ''fully loaded cost per hour of writing comments is $143.20.'' [72] Table E1 presents the yearly cost savings to the Department and the public expected under the final withdrawal rule compared to the baseline scenario. We combine the low estimates for the Department and the public to generate an overall low estimate, and similarly combine the high estimates for the Department and the public to generate an overall high estimate. We also report an overall primary estimate, which is the midpoint between the low and high estimates. Finally, we report the present discounted value (PDV) and annualized cost savings under the final withdrawal rule for both a 3% and 7% discount rate. All figures are reported in 2020 dollars, in millions.

TABLE E1—COST SAVINGS UNDER THE FINAL WITHDRAWAL RULE

[Millions of $]

Year	Department		Public		Overall		
	Low	High	Low	High	Low	Central	High
2022	$19.1	$41.5	$47.4	$142.3	$66.5	$125.2	$183.8
2023	19.1	41.5	47.4	142.3	66.5	125.2	183.8
2024	19.1	41.5	47.4	142.3	66.5	125.2	183.8
2025	19.1	41.5	47.4	142.3	66.5	125.2	183.8
2026	19.1	41.5	47.4	142.3	66.5	125.2	183.8
2027	0.9	2.0	2.2	6.7	3.1	5.9	8.7
2028	0.9	2.0	2.2	6.7	3.1	5.9	8.7
2029	0.9	2.0	2.2	6.7	3.1	5.9	8.7
2030	0.9	2.0	2.2	6.7	3.1	5.9	8.7
2031	0.9	2.0	2.2	6.7	3.1	5.9	8.7
PDV, 3%	91.0	197.9	226.1	678.3	317.1	596.7	876.2
PDV, 7%	80.9	176.0	201.1	603.2	282.0	530.6	779.2
Annualized, 3%	10.7	23.2	26.5	79.5	37.2	69.9	102.7
Annualized, 7%	11.5	25.1	28.6	85.9	40.1	75.5	110.9

For comparison, in present value terms, these estimates of annualized cost savings are more than four times the size of the annualized cost estimates included in the SUNSET final rule RIA. This reflects what the Department has now concluded are more reasonable assumptions about the effect of the SUNSET final rule rather than a claim that the combination of these two regulatory actions will generate net cost savings. These cost savings estimates attributed to the final withdrawal rule are consistent with a scenario that the Department returns to its approach to Section 610 reviews that immediately predate the publication of the SUNSET final rule on January 19, 2021. We believe that this represents a credible and appropriate approach for estimating the likely cost savings that will be attributable to the final withdrawal rule. Other considerations relating to the appropriate frequency or nature of retrospective economic analyses of existing Departmental regulations are beyond the scope of this final rule RIA.

In the previous section, we discussed concerns about potential costs of the SUNSET final rule that were overlooked in the SUNSET final rule RIA. To the extent that we are unable to quantify or monetize these costs, such as the purchase of data, conducting studies to evaluate the impacts of rules, additional overhead costs associated with contracting with non-government entities to perform a share of the retrospective work, and other personnel costs, the cost savings anticipated under the final withdrawal rule are equally underestimated.

In addition to cost savings, the final withdrawal rule will generate non-quantified benefits from reduced regulatory uncertainty. Although we calculate the cost savings estimates in this analysis by adopting an assumption that the Department will fulfill the requirements of the SUNSET final rule rather than to let any regulation expire automatically, it is highly likely that some regulations will automatically expire. Withdrawing the SUNSET final rule will remove the expiration provisions, which will also remove the likelihood of any automatic expiration of regulatory requirements. The final withdrawal rule will also eliminate the potential for regulatory confusion among stakeholders, and harm to the public health related to the actuality of having regulations expire automatically.

F. Costs of the Final Withdrawal Rule

The costs of the final withdrawal rule will be the forgone benefits of the information learned from the assessments and reviews completed under the baseline scenario. We adopt the approach taken in the SUNSET final

[70] This 1,160-hour estimate corresponds to a measure of the ''Net Supported Direct FDA Work Hours Available for Assignments'' (86 FR 5743).

[71] 86 FR 5743.

[72] 86 FR 5745.

rule RIA and make no attempt to quantify or monetize the value of this information. The SUNSET final rule RIA also describes potential benefits from subsequent regulatory actions to rescind or amend existing regulations as a result of the SUNSET final rule; however, the Department now believes that any effects associated with future regulatory actions raise challenging questions of attribution (entirely to those regulatory actions themselves, or at least partially to the SUNSET final rule). We therefore do not unambiguously identify these as a source of foregone benefits under the final withdrawal rule.

G. Analysis of Regulatory Alternatives to the Final Withdrawal Rule

We quantitatively analyze four alternative options to the final withdrawal rule. First, we consider an option to maintain the general approach of the SUNSET final rule, but adopt a two-year period following the effective date to assess and review all regulations older than ten years. This option, Alternative 1, follows the timeline envisioned under the November 4, 2020, proposed SUNSET rule.[73] Second, we consider an option to maintain the general approach of the SUNSET final rule, but adopt an initial ten-year period following the effective date to assess and review all regulations, regardless of when these were first published. This option, Alternative 2, evenly distributes the time spent by the Department assessing and reviewing existing regulations. Third, we consider an option to maintain the general framework of the SUNSET final rule but limit its scope to regulations that the Department previously identified as having a significant economic impact on a substantial number of small entities. This option, Alternative 3, would include the 326 Reviews of Post-RFA rulemakings identified in Table D1. Fourth, we consider an option, Alternative 4, that would maintain the SUNSET final rule's requirements related to the timeline for assessing and reviewing all of the Department's existing regulations, but without the automatic expiration provision contained in the SUNSET final rule.

Table G1 presents the primary estimates of yearly cost savings under the final withdrawal rule and under the four policy alternatives described above. Each of these policy options are compared to the common baseline scenario described in section D. We report the PDV and annualized cost savings under the final withdrawal rule and two policy alternatives for both a 3% and 7% discount rate. All figures are reported in 2020 dollars, in millions. Negative cost-savings estimates indicate that a policy alternative would likely result in net cost increases compared to the baseline scenario.

TABLE G1—PRIMARY ESTIMATE OF COST SAVINGS UNDER THE FINAL WITHDRAWAL RULE AND ALTERNATIVES

[$M]

Year	Final rule	Alternative 1	Alternative 2	Alternative 3	Alternative 4
2022	$125.2	−$187.8	$59.6	$70.8	$0.0
2023	125.2	−187.8	59.6	70.8	0.0
2024	125.2	121.5	59.6	70.8	0.0
2025	125.2	121.5	59.6	70.8	0.0
2026	125.2	121.5	59.6	70.8	0.0
2027	5.9	2.2	−59.6	2.9	0.0
2028	5.9	2.2	−59.6	2.9	0.0
2029	5.9	2.2	−59.6	2.9	0.0
2030	5.9	2.2	−59.6	2.9	0.0
2031	5.9	2.2	−59.6	2.9	0.0
PDV, 3%	596.7	−26.6	37.5	335.9	0.0
PDV, 7%	530.6	−54.5	70.2	298.9	0.0
Annualized, 3%	69.9	−3.1	4.4	39.4	0.0
Annualized, 7%	75.5	−7.8	10.0	42.6	0.0

The cost savings reported for the Sunset final rule match the estimates contained in Table E1 of this analysis. For Alternative 1, we estimate annualized cost savings of −$3.1 million using a 3% discount rate. This indicates that Alternative 1 would result in incremental annualized costs of $3.1 million above the baseline scenario of the SUNSET final rule. In addition to this quantified impact on cost savings, Alternative 1 would increase the likelihood that the Department would need to hire non-government experts to perform a share of the retrospective work, resulting in additional overhead costs that we have not monetized. Alternative 1 would also result in additional unquantified benefits associated with earlier completion of some of the retrospectives, and therefore earlier access to information from these assessments and reviews.

For Alternatives 2 and 3, we estimate annualized cost savings of $4.4 million and $335.9 million, respectively. Compared to the SUNSET final rule, Alternatives 2 and 3 would reduce the likelihood that the Department would need to hire non-government experts to perform a share of the retrospective work, and thus reduce the potential for additional overhead costs. Compared to the SUNSET final rule, Alternative 2 would result in non-quantified forgone benefits associated with later completion of some of the retrospective analyses, and therefore later access to information from these assessments and reviews. Alternative 3 would reduce the number of retrospective analyses and result in more foregone information.

For Alternative 4, we do not identify any incremental costs or cost savings compared to the baseline scenario of the SUNSET final rule, maintaining the assumption in the main analysis that the Department will fulfill the analytic requirements of the SUNSET final rule. However, compared to SUNSET final rule, Alternative 4 would generate non-quantified benefits from reduced regulatory uncertainty associated with the automatic expiration provision of the SUNSET final rule. Alternative 4 would, therefore, result in non-quantified benefits from reduced regulatory confusion among stakeholders, and non-quantified benefits from reduced harm to the public health related to the actuality of having regulations expire automatically.

[73] 85 FR 70096.

H. Final Small Entity Analysis

The Department has examined the economic implications of this final withdrawal rule as required by the Regulatory Flexibility Act. This analysis, as well as other sections in this Regulatory Impact Analysis, serves as the Final Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

1. Description and Number of Affected Small Entities

The SBA maintains a Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS).[74] We replicate the SBA's description of this table:

> This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2017. The latest NAICS codes are referred to as NAICS 2017.
>
> The size standards are for the most part expressed in either millions of dollars (those preceded by ''$'') or number of employees (those without the ''$''). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm.

The SUNSET final rule will potentially impact small entities across at least NAICS industry sectors 11 (Agriculture, Forestry, Fishing and Hunting), 31–33 (Manufacturing), 42 (Wholesale Trade), 44–45 (Retail Trade), 48–49 (Transportation and Warehousing), 52 (Finance and Insurance), 54 (Professional, Scientific, and Technical Services), 62 (Health Care and Social Assistance), 81 (Other Services (except Public Administration)), and 92 (Public Administration). Given the wide range of entities affected, and various sources of uncertainty described in this section, it is not practical to directly estimate the number of small entities that will potentially be impacted under the baseline scenario of the SUNSET final rule. Similarly, it is impractical to identify the small entities that will be impacted by the final withdrawal rule. The Congressional Research Service observes that ''about 97% of all employer firms qualify as small under the SBA's size standards. These firms represent about 30% of industry receipts.'' [75] For practicality, we assume that the bulk of the potential impacts of the final withdrawal rule to private sector regulated entities are small entities.

2. Description of the Potential Impacts of the Rule on Small Entities

Impacts to Small Entities Related to Rescissions and Amendments

When estimating the impact on the public, the SUNSET final rule RIA first estimates that 53 regulations will be rescinded and another 159 regulations will be amended as a result of the retrospective analyses initiated as a result of the SUNSET final rule. Since the particular regulations impacted are unknowable prior to conducting the retrospective analyses, this results in uncertainty over the types of small entities that will be affected under the baseline scenario of the SUNSET final rule. The nature of this uncertainty means it is infeasible to estimate the number of small entities affected by these potential rescinded or amended regulations without first completing the retrospective analyses.

As described earlier, the Department no longer believes it was appropriate to unambiguously attribute to the SUNSET final rulemaking subsequent regulatory actions of this nature in the context of a regulatory impact analysis. We therefore do not attribute any impacts of this nature to the final withdrawal rule, nor do we identify any impacts to small entities.

Impacts to Small Entities Related to the Automatic Expiration of Regulations

When identifying the potential benefits of the final withdrawal rule, we note that, while the Department would seek to fulfill the requirements of the SUNSET final rule rather than to let any regulation expire automatically, it is highly likely that some regulations will automatically expire without substantive review. This potential impact under the SUNSET final rule does not introduce similar questions of attribution; however, there remains uncertainty over the particular regulations that will be impacted. The nature of this uncertainty means we cannot identify the small entities that are most likely to be affected by regulations that automatically expire without substantive review.

Revoking the SUNSET final rule will remove the expiration provisions, which will also remove the likelihood of any automatic expiration of regulatory requirements. The final withdrawal rule will also eliminate the potential for regulatory confusion among stakeholders, including small entities. We anticipate that a large share of these non-quantified benefits will accrue to small entities.

Impacts to Small Entities Related to Commenting on Assessments and Reviews

When identifying the potential benefits of the final withdrawal rule, we estimate the cost savings to the public from not commenting on these assessments and reviews that will be performed under the baseline scenario of the SUNSET final rule. Table E1 summarizes these estimates, including a range of cost-savings to the public sector between $26.5 million and $79.5 million in annualized terms under a 3% discount rate. Under a 7% discount rate, the comparable range of cost savings is $28.6 million and $85.9 million. Although these represent substantial cost savings in the aggregate, these include comments not just from small entities but also the general public, larger businesses, Tribes, States, non-governmental organizations, and other regulated entities and stakeholders.

To evaluate the likely magnitude of the impact to a single small entity, we consider an illustrative scenario of a full-time sole proprietor that submits 1 or fewer comment per year. As described earlier, we estimate that each comment takes between 5 and 15 hours to prepare and submit. The final withdrawal rule will reduce the time spent on comments for this small entity by 5 to 15 hours per year. This represents between 0.2% to 0.7% of annual labor time saved, computed using an assumption that the individual works 2,087 hours per year. As an additional sensitivity analysis, we computed the number of comments that a sole proprietor will need to submit in one year such that the time spent on comments will exceed 3% of total time spent on labor. Assuming 2,087 hours of labor time per year, the total time spent on comments to meet this threshold is about 63 hours. Using a central estimate of 10 hours to prepare and submit each comment, the sole proprietor could prepare up to 6 comments per year without exceeding the 3% threshold. We expect that fewer than 5 percent of small entities would share more than 6 comments per year on regulations undergoing a retrospective analysis under the SUNSET final rule. This indicates that the potential cost savings to small entities under the final withdrawal rule are unlikely to be significant for a substantial number of small entities. The Department

[74] U.S. Small Business Administration (2019). ''Table of Size Standards.'' August 19, 2019. *https://www.sba.gov/document/support--table-size-standards.*

[75] Robert Jay Dilger (2021). ''Small Business Size Standards: A Historical Analysis of Contemporary Issues.'' Congressional Research Service Report R40860. Updated May 28, 2021. Page 2. *https://crsreports.congress.gov/product/pdf/R/R40860.*

considers a rule to have a significant impact on a substantial number of small entities if it has at least a three percent impact on revenue on at least five percent of small entities. This cost-saving benefit is well below this threshold.

XII. Federalism

We have analyzed this final rule in accordance with the principles set forth in E.O. 13132, ''Federalism.'' The Department has determined that this final rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

VIII. Consultation and Coordination With Indian Tribal Governments

We have analyzed this final rule in accordance with the principles set forth in E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments.'' As we acknowledged and agreed in the Withdrawal NPRM, multiple comments from representatives of several Tribes and related groups expressed concern that the SUNSET final rule would have significant tribal implications, if implemented, and that consultation with Tribal governments on the SUNSET proposed rule was not adequate. *See* 86 FR 59931. However, the Department further explained that tribal consultation on the Withdrawal NPRM was unnecessary because the withdrawal of the SUNSET final rule would continue the status quo, and because of the numerous comments already received from Tribal governments and representatives asking for the SUNSET final rule to be withdrawn. The Department nevertheless provided notice of the Withdrawal NPRM to Tribes, acknowledging tribal concerns with the lack of tribal consultation on the earlier rulemaking and encouraging them to share any additional feedback by providing written comments on the proposed withdrawal. The Department continues to conclude that the final withdrawal rule does not contain policies that would 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.

IX. Analysis of Environmental Impacts

HHS had determined that the final rule will not have a significant impact on the environment.

X. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, 44 U.S.C. 3501–3521; 5 CFR part 1320, appendix A.1, the Department has reviewed this final rule and has determined that it proposes no new collections of information.

XI. References

1. OIRA dashboard screenshot (Dec. 18, 2020).
2. Complaint, *County of Santa Clara* v. *HHS,* Case No. 5:21–cv–01655–BLF (N.D. Cal. Mar. 9, 2021).

Dated: May 24, 2022.

Xavier Becerra,

Secretary.

[FR Doc. 2022–11477 Filed 5–26–22; 8:45 am]

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